

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD
CHARGE AGAINST EMPLOYER

DO NOT WRITE IN THIS SPACE

Case

04-CA-291361

Date Filed

2/28/22

INSTRUCTIONS:

File an original with NLRB Regional Director for the region in which the alleged unfair labor practice occurred or is occurring.

1. EMPLOYER AGAINST WHOM CHARGE IS BROUGHT

a. Name of Employer GFP Mobile Mix Supply, LLC		b. Tel. No. 302-998-7687
		c. Cell No. (b) (6), (b) (7)(C)
		f. Fax. No.
d. Address (Street, city, state, and ZIP code) 14 Hadco Road Wilmington, DE 19804	e. Employer Representative (b) (6), (b) (7)(C)	g. e-mail (b) (6), (b) (7)(C)@gfpccement.com
h. Number of workers employed		
i. Type of Establishment (factory, mine, wholesaler, etc.) Concrete Mixing	j. Identify principal product or service concrete	

The above-named employer has engaged in and is engaging in unfair labor practices within the meaning of section 8(a), subsections (1) and (list subsections) (5) of the National Labor Relations Act, and these unfair labor practices are practices affecting commerce within the meaning of the Act, or these unfair labor practices are practices affecting commerce within the meaning of the Act and the Postal Reorganization Act.

2. Basis of the Charge (set forth a clear and concise statement of the facts constituting the alleged unfair labor practices)

On or about (b) (6), (b) (7)(C) 2022 the above-named employer violated the Act by implementing a new disciplinary system (more stringent disciplinary enforcement) that included writing up employees for alleged infractions that they had never been disciplined for in the past.

3. Full name of party filing charge (if labor organization, give full name, including local name and number)

International Union of Operating Engineers, Local 542

4a. Address (Street and number, city, state, and ZIP code) 1375 Virginia Drive Suite 100 Fort Washington, PA 19034	4b. Tel. No. 215-542-7500
	4c. Cell No. 215-260-4627
	4d. Fax No. 215-591-0978
	4e. e-mail john.epperson@iuoe542.com

5. Full name of national or international labor organization of which it is an affiliate or constituent unit (to be filled in when charge is filed by a labor organization)

International Union of Operating Engineers, Local 542 AFL-CIO

6. DECLARATION

I declare that I have read the above charge and that the statements are true to the best of my knowledge and belief.

John Epperson

(signature of representative or person making charge)

(Print/type name and title or office, if any)

Tel. No. 215-542-7500
Office, if any, Cell No. 215-260-4627
Fax No.
e-mail john.epperson@iuoe542.com

Address 1375 Virginia Dr., Ste. 100, Ft. Washington, PA 19034

Date 02/28/2022

WILLFUL FALSE STATEMENTS ON THIS CHARGE CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)
PRIVACY ACT STATEMENT

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing unfair labor practice and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary; however, failure to supply the information may cause the NLRB to decline to invoke its processes.

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD
CHARGE AGAINST EMPLOYER

DO NOT WRITE IN THIS SPACE	
Case	Date Filed

INSTRUCTIONS:

File an original with NLRB Regional Director for the region in which the alleged unfair labor practice occurred or is occurring.

1. EMPLOYER AGAINST WHOM CHARGE IS BROUGHT			
a. Name of Employer		b. Tel. No.	
		c. Cell No. (b) (6), (b) (7)(C)	
		f. Fax. No.	
d. Address (Street, city, state, and ZIP code)	e. Employer Representative (b) (6), (b) (7)(C)	g. e-mail (b) (6), (b) (7)(C)	
		h. Number of workers employed	
		j. Identify principal product or service	
i. Type of Establishment (factory, mine, wholesaler, etc.)			
The above-named employer has engaged in and is engaging in unfair labor practices within the meaning of section 8(a), subsections (1) and (list subsections) of the National Labor Relations Act, and these unfair labor practices are practices affecting commerce within the meaning of the Act, or these unfair labor practices are practices affecting commerce within the meaning of the Act and the Postal Reorganization Act.			
2. Basis of the Charge (set forth a clear and concise statement of the facts constituting the alleged unfair labor practices) (b) (6), (b) (7)(C)			
3. Full name of party filing charge (if labor organization, give full name, including local name and number)			
4a. Address (Street and number, city, state, and ZIP code)		4b. Tel. No.	
		4c. Cell No.	
		4d. Fax No.	
		4e. e-mail	
5. Full name of national or international labor organization of which it is an affiliate or constituent unit (to be filled in when charge is filed by a labor organization)			
6. DECLARATION I declare that I have read the above charge and that the statements are true to the best of my knowledge and belief. _____ (signature of representative or person making charge) Address _____ _____ (Print/type name and title or office, if any) Date _____		Tel. No.	
		Office, if any, Cell No.	
		Fax No.	
		e-mail	

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UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

REGION 4
100 E Penn Square
Suite 403
Philadelphia, PA 19107

Agency Website: www.nlr.gov
Telephone: (215)597-7601
Fax: (215)597-7658



Download
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February 17, 2023

(b) (6), (b) (7)(C)

GFP Mobile Mix Supply, LLC
14 Hadco Road
Wilmington, DE 19804

Re: GFP Mobile Mix Supply, LLC
Case 04-CA-291361

Dear (b) (6), (b) (7)(C):

Enclosed is a copy of the first amended charge that has been filed in this case.

Investigator: This charge is being investigated by Field Attorney Nicholas S. Allen whose telephone number is (215)597-9711. If the agent is not available, you may contact Supervisory Attorney PATRICIA A. GARBBER whose telephone number is (215)597-7625.

Presentation of Your Evidence: As you know, we seek prompt resolutions of labor disputes. Therefore, I urge you or your representative to submit a complete written account of the facts and a statement of your position with respect to the allegations in the first amended charge as soon as possible. If the Board agent later asks for more evidence, I strongly urge you or your representative to cooperate fully by promptly presenting all evidence relevant to the investigation. In this way, the case can be fully investigated more quickly.

Preservation of all Potential Evidence: Please be mindful of your obligation to preserve all relevant documents and electronically stored information (ESI) in this case, and to take all steps necessary to avoid the inadvertent loss of information in your possession, custody or control. Relevant information includes, but is not limited to, paper documents and all ESI (e.g. SMS text messages, electronic documents, emails, and any data created by proprietary software tools) related to the above-captioned case.

Prohibition on Recording Affidavit Interviews: It is the policy of the General Counsel to prohibit affiants from recording the interview conducted by Board agents when subscribing Agency affidavits. Such recordings may impede the Agency's ability to safeguard the confidentiality of the affidavit itself, protect the privacy of the affiant and potentially compromise the integrity of the Region's investigation.

Procedures: Pursuant to Section 102.5 of the Board's Rules and Regulations, parties must submit all documentary evidence, including statements of position, exhibits, sworn statements, and/or other evidence, by electronically submitting (E-Filing) them through the Agency's web site (www.nlr.gov). You must e-file all documents electronically or provide a written statement explaining why electronic submission is not possible or feasible. Failure to

comply with Section 102.5 will result in rejection of your submission. The Region will make its determination on the merits solely based on the evidence properly submitted. All evidence submitted electronically should be in the form in which it is normally used and maintained in the course of business (i.e., native format). Where evidence submitted electronically is not in native format, it should be submitted in a manner that retains the essential functionality of the native format (i.e., in a machine-readable and searchable electronic format). If you have questions about the submission of evidence or expect to deliver a large quantity of electronic records, please promptly contact the Board agent investigating the charge.

If the Agency does not issue a formal complaint in this matter, parties will be notified of the Regional Director's decision by email. Please ensure that the agent handling your case has your current email address.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Emily De Sa', with a stylized flourish extending to the right.

Emily De Sa
Regional Director

Enclosure: Copy of first amended charge

cc: Robert C. Nagle, Esquire
Fox Rothschild LLP
10 Sentry Parkway, Suite 2000
Blue Bell, PA 19422

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD

GFP MOBILE MIX SUPPLY, LLC

Charged Party

and

**INTERNATIONAL UNION OF OPERATING
ENGINEERS LOCAL 542**

Charging Party

Case 04-CA-291361

AFFIDAVIT OF SERVICE OF FIRST AMENDED CHARGE AGAINST EMPLOYER

I, the undersigned employee of the National Labor Relations Board, being duly sworn, say that on , I served the above-entitled document(s) by regular mail upon the following persons, addressed to them at the following addresses:

(b) (6), (b) (7)(C)

GFP Mobile Mix Supply, LLC
14 Hadco Road
Wilmington, DE 19804

Robert C. Nagle, Esquire
Fox Rothschild LLP
10 Sentry Parkway, Suite 2000
Blue Bell, PA 19422

February 17, 2023

Date

Ladean Williams
Designated Agent of NLRB

Name

/s/ Ladean Williams

Signature



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

REGION 4
100 E Penn Square
Suite 403
Philadelphia, PA 19107

Agency Website: www.nlrb.gov
Telephone: (215)597-7601
Fax: (215)597-7658



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February 17, 2023

John Epperson, Business Agent
International Union of Operating Engineers
Local 542, AFL-CIO
1375 Virginia Drive, Suite 100
Fort Washington, PA 19034

Re: GFP Mobile Mix Supply, LLC
Case 04-CA-291361

Dear Mr. Epperson:

We have docketed the first amended charge that you filed in this case.

Investigator: This charge is being investigated by Field Attorney Nicholas S. Allen whose telephone number is (215)597-9711. If the agent is not available, you may contact Supervisory Attorney PATRICIA A. GARBEN whose telephone number is (215)597-7625.

Presentation of Your Evidence: As the party who filed the charge in this case, it is your responsibility to meet with the Board agent to provide a sworn affidavit, or provide other witnesses to provide sworn affidavits, and to provide relevant documents within your possession. If you have additional evidence regarding the allegations in the first amended charge and you have not yet scheduled a date and time for the Board agent to obtain that evidence, please contact the Board agent to arrange to present that evidence. If you fail to cooperate in promptly presenting your evidence, your charge may be dismissed.

Preservation of all Potential Evidence: Please be mindful of your obligation to preserve all relevant documents and electronically stored information (ESI) in this case, and to take all steps necessary to avoid the inadvertent loss of information in your possession, custody or control. Relevant information includes, but is not limited to, paper documents and all ESI (e.g. SMS text messages, electronic documents, emails, and any data created by proprietary software tools) related to the above-captioned case.

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statements, and/or other evidence, by electronically submitting (E-Filing) them through the Agency's web site (www.nlr.gov). You must e-file all documents electronically or provide a written statement explaining why electronic submission is not possible or feasible. Failure to comply with Section 102.5 will result in rejection of your submission. The Region will make its determination on the merits solely based on the evidence properly submitted. All evidence submitted electronically should be in the form in which it is normally used and maintained in the course of business (i.e., native format). Where evidence submitted electronically is not in native format, it should be submitted in a manner that retains the essential functionality of the native format (i.e., in a machine-readable and searchable electronic format). If you have questions about the submission of evidence or expect to deliver a large quantity of electronic records, please promptly contact the Board agent investigating the charge.

If the Agency does not issue a formal complaint in this matter, parties will be notified of the Regional Director's decision by email. Please ensure that the agent handling your case has your current email address.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Emily De Sa', with a horizontal line extending to the right.

Emily De Sa
Regional Director

cc: Regina C. Hertzog, Esquire
Cleary Josem & Trigiani, LLP
Constitution Place
325 Chestnut Street, Suite 200
Philadelphia, PA 19106

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD
CHARGE AGAINST EMPLOYER

DO NOT WRITE IN THIS SPACE	
Case 04-CA-291285	Date Filed 2/25/22

INSTRUCTIONS:

File an original with NLRB Regional Director for the region in which the alleged unfair labor practice occurred or is occurring.

1. EMPLOYER AGAINST WHOM CHARGE IS BROUGHT

a. Name of Employer GFP Mobile Mix Supply, LLC		b. Tel. No. 302-998-7687
		c. Cell No. (b) (6), (b) (7)(C)
		f. Fax. No.
d. Address (Street, city, state, and ZIP code) 14 Hadco Rd. Wilmington, DE 19804	e. Employer Representative (b) (6), (b) (7)(C)	g. e-mail (b) (6), (b) (7)(C)@gfpccement.com
		h. Number of workers employed 7
i. Type of Establishment (factory, mine, wholesaler, etc.) Concrete Mixing	j. Identify principal product or service concrete	

The above-named employer has engaged in and is engaging in unfair labor practices within the meaning of section 8(a), subsections (1) and (list subsections) (3) of the National Labor Relations Act, and these unfair labor practices are practices affecting commerce within the meaning of the Act, or these unfair labor practices are practices affecting commerce within the meaning of the Act and the Postal Reorganization Act.

2. Basis of the Charge (set forth a clear and concise statement of the facts constituting the alleged unfair labor practices)
On or about (b) (6), (b) (7)(C)-22, the above named employer terminated (b) (6), (b) (7)(C) in violation of the Act.

3. Full name of party filing charge (if labor organization, give full name, including local name and number)
International Union of Operating Engineers; Local 542

4a. Address (Street and number, city, state, and ZIP code) 1375 Virginia Dr. Suite 100 Fort Washington, PA 19034	4b. Tel. No. 215-542-7500
	4c. Cell No. 215-260-4627
	4d. Fax No. 215-591-0978
	4e. e-mail john.epperson@iuoe542.com

5. Full name of national or international labor organization of which it is an affiliate or constituent unit (to be filled in when charge is filed by a labor organization)
International Union of Operating Engineers; Local 542 AFL-CIO

6. DECLARATION

I declare that I have read the above charge and that the statements are true to the best of my knowledge and belief.

John Epperson

(signature of representative or person making charge)

(Print/type name and title or office, if any)

1375 Virginia Dr., Ste 100 Ft. Washington PA 19034

Address

Date 2-25-22

Tel. No.
215-542-7500

Office, if any, Cell No.
215-260-4627

Fax No.

e-mail
john.epperson@iuoe542.com

WILLFUL FALSE STATEMENTS ON THIS CHARGE CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)
PRIVACY ACT STATEMENT

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UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD
AMENDED CHARGE AGAINST
EMPLOYER

DO NOT WRITE IN THIS SPACE	
Case 04-CA-291285	Date Filed 3/16/22

INSTRUCTIONS:

File an original with NLRB Regional Director for the region in which the alleged unfair labor practice occurred or is occurring.

1. EMPLOYER AGAINST WHOM CHARGE IS BROUGHT	
a. Name of Employer GFP Mobile Mix Supply, LLC	b. Tel. No. 302-998-7687
	c. Cell No. (b) (6), (b) (7)(C)
	f. Fax. No.
d. Address (Street, city, state, and ZIP code) 14 Hadco Road Wilmington, DE 19804	e. Employer Representative (b) (6), (b) (7)(C)
	g. e-mail (b) (6), (b) (7)(C)@gfpcement.com
	h. Number of workers employed 7
i. Type of Establishment (factory, mine, wholesaler, etc.) Concrete mixing	j. Identify principal product or service Concrete

The above-named employer has engaged in and is engaging in unfair labor practices within the meaning of section 8(a), subsections (1) and (list subsections) (3) of the National Labor Relations Act, and these unfair labor practices are practices affecting commerce within the meaning of the Act, or these unfair labor practices are practices affecting commerce within the meaning of the Act and the Postal Reorganization Act.

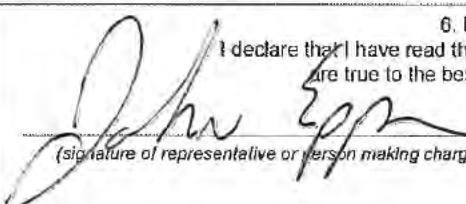
2. Basis of the Charge (set forth a clear and concise statement of the facts constituting the alleged unfair labor practices)
Since on or about (b) (6), (b) (7)(C)-2022, the Employer has refused to schedule employee (b) (6), (b) (7)(C) for work in order to coerce employees in their exercise of rights protected by Section 7 of the Act and to discourage employees from joining or supporting the Union or engaging in union activity.

3. Full name of party filing charge (if labor organization, give full name, including local name and number)
International Union of Operating Engineers, Local 542

4a. Address (Street and number, city, state, and ZIP code) 1375 Virginia Dr. Suite 100 Fort Washington, PA 19034	4b. Tel. No. 215-542-7500
	4c. Cell No. 215-260-4627
	4d. Fax No. 215-590-0978
	4e. e-mail john.epperson@iuoe542.com

5. Full name of national or international labor organization of which it is an affiliate or constituent unit (to be filled in when charge is filed by a labor organization)

International Union of Operating Engineers, Local 542 AFL-CIO

6. DECLARATION		Tel. No. 215-542-7500
I declare that I have read the above charge and that the statements are true to the best of my knowledge and belief.		Office, if any, Cell No. 215-260-4727
 (signature of representative or person making charge)		Fax No.
John Epperson (Print/Type name and title or office, if any)		e-mail john.epperson@iuoe542.com
Address 1375 Virginia Dr. Ste 100 Fort Washington PA 19034		
Date 3-16-22		

**WILLFUL FALSE STATEMENTS ON THIS CHARGE CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)
PRIVACY ACT STATEMENT**

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UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

REGION 4
100 E Penn Square
Suite 403
Philadelphia, PA 19107

Agency Website: www.nlr.gov
Telephone: (215)597-7601
Fax: (215)597-7658



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Mobile App

March 16, 2022

(b) (6), (b) (7)(C)

GFP Mobile Mix Supply, LLC
14 Hadco Road
Wilmington, DE 19804

Re: GFP Mobile Mix Supply, LLC
Case 04-CA-291285

Dear (b) (6), (b) (7)(C):

Enclosed is a copy of the first amended charge that has been filed in this case.

Investigator: This charge is being investigated by Field Attorney Nicholas S. Allen whose telephone number is (215)597-9711. If the agent is not available, you may contact Supervisory Attorney PATRICIA A. GARBER whose telephone number is (215)597-7625.

Presentation of Your Evidence: As you know, we seek prompt resolutions of labor disputes. Therefore, I urge you or your representative to submit a complete written account of the facts and a statement of your position with respect to the allegations in the first amended charge as soon as possible. If the Board agent later asks for more evidence, I strongly urge you or your representative to cooperate fully by promptly presenting all evidence relevant to the investigation. In this way, the case can be fully investigated more quickly.

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If the Agency does not issue a formal complaint in this matter, parties will be notified of the Regional Director's decision by email. Please ensure that the agent handling your case has your current email address.

Very truly yours,

A handwritten signature in black ink that reads "Thomas Goonan". The signature is written in a cursive, flowing style.

Thomas Goonan
Regional Director

Enclosure: Copy of first amended charge

cc: Robert C Nagle, Esquire
Fox Rothschild LLP
10 Sentry Parkway, Suite 2000
Blue Bell, PA 19422

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD

GFP MOBILE MIX SUPPLY, LLC

Charged Party

and

**INTERNATIONAL UNION OF OPERATING
ENGINEERS LOCAL 542**

Charging Party

Case 04-CA-291285

AFFIDAVIT OF SERVICE OF FIRST AMENDED CHARGE AGAINST EMPLOYER

I, the undersigned employee of the National Labor Relations Board, being duly sworn, say that on March 16, 2022, I served the above-entitled document(s) by regular mail upon the following persons, addressed to them at the following addresses:

(b) (6), (b) (7)(C)

GFP Mobile Mix Supply, LLC
14 Hadco Road
Wilmington, DE 19804

Robert C Nagle, Esquire
Fox Rothschild LLP
10 Sentry Parkway, Suite 2000
Blue Bell, PA 19422

March 16, 2022

Date

Lorraine Y. Murray
Designated Agent of NLRB

Name

/s/ Lorraine Y. Murray

Signature



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

REGION 4
100 E Penn Square
Suite 403
Philadelphia, PA 19107

Agency Website: www.nlrb.gov
Telephone: (215)597-7601
Fax: (215)597-7658



Download
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Mobile App

March 16, 2022

John Epperson, Business Agent
International Union of Operating
Engineers Local 542
1375 Virginia Drive, Suite 100
Fort Washington, PA 19034

Re: GFP Mobile Mix Supply, LLC
Case 04-CA-291285

Dear Mr. Epperson:

We have docketed the first amended charge that you filed in this case.

Investigator: This charge is being investigated by Field Attorney Nicholas S. Allen whose telephone number is (215)597-9711. If the agent is not available, you may contact Supervisory Attorney PATRICIA A. GARBER whose telephone number is (215)597-7625.

Presentation of Your Evidence: As the party who filed the charge in this case, it is your responsibility to meet with the Board agent to provide a sworn affidavit, or provide other witnesses to provide sworn affidavits, and to provide relevant documents within your possession. If you have additional evidence regarding the allegations in the first amended charge and you have not yet scheduled a date and time for the Board agent to obtain that evidence, please contact the Board agent to arrange to present that evidence. If you fail to cooperate in promptly presenting your evidence, your charge may be dismissed.

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If the Agency does not issue a formal complaint in this matter, parties will be notified of the Regional Director's decision by email. Please ensure that the agent handling your case has your current email address.

Very truly yours,

A handwritten signature in cursive script that reads "Thomas Goonan". The signature is written in dark ink and is positioned below the typed name.

Thomas Goonan
Regional Director

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD
CHARGE AGAINST EMPLOYER

DO NOT WRITE IN THIS SPACE	
Case 04-CA-291289	Date Filed 2/25/22

INSTRUCTIONS:

File an original with NLRB Regional Director for the region in which the alleged unfair labor practice occurred or is occurring.

1. EMPLOYER AGAINST WHOM CHARGE IS BROUGHT

a. Name of Employer GFP Mobile Mix Supply, LLC		b. Tel. No. 302-998-7687
		c. Cell No. (b) (6), (b) (7)(C)
		f. Fax. No.
d. Address (Street, city, state, and ZIP code) 14 Hadco Rd. Wilmington, DE 19804	e. Employer Representative (b) (6), (b) (7)(C)	g. e-mail (b) (6), (b) (7)(C)@gfpccement.com
		h. Number of workers employed 7
i. Type of Establishment (factory, mine, wholesaler, etc.) Concrete Mixing	j. Identify principal product or service concrete	

The above-named employer has engaged in and is engaging in unfair labor practices within the meaning of section 8(a), subsections (1) and (list subsections) (1) of the National Labor Relations Act, and these unfair labor practices are practices affecting commerce within the meaning of the Act, or these unfair labor practices are practices affecting commerce within the meaning of the Act and the Postal Reorganization Act.

2. Basis of the Charge (set forth a clear and concise statement of the facts constituting the alleged unfair labor practices)

On or about January 2022, the above named employer violated the Act by promising (b) (6), (b) (7)(C) increased work hours during the critical election period, thereby destroying laboratory conditions.

3. Full name of party filing charge (if labor organization, give full name, including local name and number)

International Union of Operating Engineers; Local 542

4a. Address (Street and number, city, state, and ZIP code) 1375 Virginia Dr. Suite 100 Fort Washington, PA 19034	4b. Tel. No. 215-542-7500
	4c. Cell No. 215-260-4627
	4d. Fax No. 215-591-0978
	4e. e-mail john.epperson@iuoe542.com

5. Full name of national or international labor organization of which it is an affiliate or constituent unit (to be filled in when charge is filed by a labor organization)

International Union of Operating Engineers; Local 542 AFL-CIO

6. DECLARATION

I declare that I have read the above charge and that the statements are true to the best of my knowledge and belief.

John Epperson

(signature of representative or person making charge)

(Print/type name and title or office, if any)

1375 Virginia Dr., Ste 100 Ft. Washington PA 19034

Address

Date 2-25-22

Tel. No.
215-542-7500

Office, if any, Cell No.
215-260-4627

Fax No.

e-mail
john.epperson@iuoe542.com

**WILLFUL FALSE STATEMENTS ON THIS CHARGE CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)
PRIVACY ACT STATEMENT**

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing unfair labor practice and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary; however, failure to supply the information may cause the NLRB to decline to invoke its processes.

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD
**AMENDED CHARGE AGAINST
EMPLOYER**

DO NOT WRITE IN THIS SPACE	
Case 04-CA-291289	Date Filed 3/16/22

INSTRUCTIONS:

File an original with NLRB Regional Director for the region in which the alleged unfair labor practice occurred or is occurring.

1. EMPLOYER AGAINST WHOM CHARGE IS BROUGHT	
a. Name of Employer GFP Mobile Mix Supply, LLC	b. Tel. No. 302-998-7687
	c. Cell No. (b) (6), (b) (7)(C)
	f. Fax. No.
d. Address (Street, city, state, and ZIP code) 14 Hadco Road Wilmington, DE 19804	e. Employer Representative (b) (6), (b) (7)(C)
	g. e-mail (b) (6), (b) (7)(C)@gfpccement.com
	h. Number of workers employed 7
i. Type of Establishment (factory, mine, wholesaler, etc.) Concrete mixing	j. Identify principal product or service Concrete

The above-named employer has engaged in and is engaging in unfair labor practices within the meaning of section 8(a), subsections (1) and (list subsections) (3) of the National Labor Relations Act, and these unfair labor practices are practices affecting commerce within the meaning of the Act, or these unfair labor practices are practices affecting commerce within the meaning of the Act and the Postal Reorganization Act.

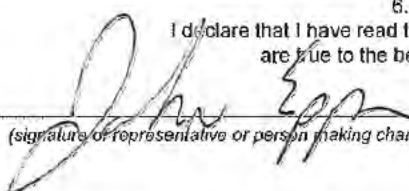
2. Basis of the Charge (set forth a clear and concise statement of the facts constituting the alleged unfair labor practices)
Between around November 2021 and January 2022, the Employer violated the Act by promising employee (b) (6), (b) (7)(C) increased work hours and increasing (b) (6), (b) (7)(C) work hours in order to coerce employees in the exercise of rights protected by Section 7 of the Act and to discourage employees from supporting the Union or engaging in union activity.

3. Full name of party filing charge (if labor organization, give full name, including local name and number)
International Union of Operating Engineers, Local 542

4a. Address (Street and number, city, state, and ZIP code) 1375 Virginia Dr. Suite 100 Fort Washington, PA 19034	4b. Tel. No. 215-542-7500
	4c. Cell No. 215-260-4627
	4d. Fax No. 215-590-0978
	4e. e-mail john.epperson@iuoe542.com

5. Full name of national or international labor organization of which it is an affiliate or constituent unit (to be filled in when charge is filed by a labor organization)

International Union of Operating Engineers, Local 542 AFL-CIO

6. DECLARATION	
I declare that I have read the above charge and that the statements are true to the best of my knowledge and belief.	
 (signature of representative or person making charge)	John Epperson (Print/type name and title or office, if any)
Tel. No. 215-542-7500	
Office, if any, Cell No. 215-260-4727	
Fax No.	
e-mail john.epperson@iuoe542.com	
Address 1375 Virginia Dr Ste 100 Fort Washington PA 19034 Date 3-16-22	

**WILLFUL FALSE STATEMENTS ON THIS CHARGE CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)
PRIVACY ACT STATEMENT**

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UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

REGION 4
100 E Penn Square
Suite 403
Philadelphia, PA 19107

Agency Website: www.nlrb.gov
Telephone: (215)597-7601
Fax: (215)597-7658



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March 16, 2022

(b) (6), (b) (7)(C)

GFP Mobile Mix Supply, LLC
14 Hadco Road
Wilmington, DE 19804

Re: GFP Mobile Mix Supply, LLC
Case 04-CA-291289

Dear (b) (6), (b) (7)(C):

Enclosed is a copy of the first amended charge that has been filed in this case.

Investigator: This charge is being investigated by Field Attorney Nicholas S. Allen whose telephone number is (215)597-9711. If the agent is not available, you may contact Supervisory Attorney PATRICIA A. GARBER whose telephone number is (215)597-7625.

Presentation of Your Evidence: As you know, we seek prompt resolutions of labor disputes. Therefore, I urge you or your representative to submit a complete written account of the facts and a statement of your position with respect to the allegations in the first amended charge as soon as possible. If the Board agent later asks for more evidence, I strongly urge you or your representative to cooperate fully by promptly presenting all evidence relevant to the investigation. In this way, the case can be fully investigated more quickly.

Preservation of all Potential Evidence: Please be mindful of your obligation to preserve all relevant documents and electronically stored information (ESI) in this case, and to take all steps necessary to avoid the inadvertent loss of information in your possession, custody or control. Relevant information includes, but is not limited to, paper documents and all ESI (e.g. SMS text messages, electronic documents, emails, and any data created by proprietary software tools) related to the above-captioned case.

Prohibition on Recording Affidavit Interviews: It is the policy of the General Counsel to prohibit affiants from recording the interview conducted by Board agents when subscribing Agency affidavits. Such recordings may impede the Agency's ability to safeguard the confidentiality of the affidavit itself, protect the privacy of the affiant and potentially compromise the integrity of the Region's investigation.

Procedures: Pursuant to Section 102.5 of the Board's Rules and Regulations, parties must submit all documentary evidence, including statements of position, exhibits, sworn statements, and/or other evidence, by electronically submitting (E-Filing) them through the Agency's web site (www.nlrb.gov). You must e-file all documents electronically or provide a written statement explaining why electronic submission is not possible or feasible. Failure to comply with Section 102.5 will result in rejection of your submission. The Region will make its

determination on the merits solely based on the evidence properly submitted. All evidence submitted electronically should be in the form in which it is normally used and maintained in the course of business (i.e., native format). Where evidence submitted electronically is not in native format, it should be submitted in a manner that retains the essential functionality of the native format (i.e., in a machine-readable and searchable electronic format). If you have questions about the submission of evidence or expect to deliver a large quantity of electronic records, please promptly contact the Board agent investigating the charge.

If the Agency does not issue a formal complaint in this matter, parties will be notified of the Regional Director's decision by email. Please ensure that the agent handling your case has your current email address.

Very truly yours,

A handwritten signature in black ink that reads "Thomas Goonan". The signature is written in a cursive, flowing style.

Thomas Goonan
Regional Director

Enclosure: Copy of first amended charge

cc: Robert C Nagle, Esquire
Fox Rothschild LLP
10 Sentry Parkway, Suite 2000
Blue Bell, PA 19422

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD

GFP MOBILE MIX SUPPLY, LLC

Charged Party

and

**INTERNATIONAL UNION OF OPERATING
ENGINEERS LOCAL 542**

Charging Party

Case 04-CA-291289

AFFIDAVIT OF SERVICE OF FIRST AMENDED CHARGE AGAINST EMPLOYER

I, the undersigned employee of the National Labor Relations Board, being duly sworn, say that on March 16, 2022, I served the above-entitled document(s) by regular mail upon the following persons, addressed to them at the following addresses:

(b) (6), (b) (7)(C)

GFP Mobile Mix Supply, LLC
14 Hadco Road
Wilmington, DE 19804

Robert C Nagle, Esquire
Fox Rothschild LLP
10 Sentry Parkway, Suite 2000
Blue Bell, PA 19422

March 16, 2022

Date

Lorraine Y. Murray
Designated Agent of NLRB

Name

/s/ Lorraine Y. Murray

Signature



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

REGION 4
100 E Penn Square
Suite 403
Philadelphia, PA 19107

Agency Website: www.nlrb.gov
Telephone: (215)597-7601
Fax: (215)597-7658



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March 16, 2022

John Epperson, Business Agent
International Union of Operating
Engineers Local 542
1375 Virginia Drive, Suite 100
Fort Washington, PA 19034

Re: GFP Mobile Mix Supply, LLC
Case 04-CA-291289

Dear Mr. Epperson:

We have docketed the first amended charge that you filed in this case.

Investigator: This charge is being investigated by Field Attorney Nicholas S. Allen whose telephone number is (215)597-9711. If the agent is not available, you may contact Supervisory Attorney PATRICIA A. GARBEN whose telephone number is (215)597-7625.

Presentation of Your Evidence: As the party who filed the charge in this case, it is your responsibility to meet with the Board agent to provide a sworn affidavit, or provide other witnesses to provide sworn affidavits, and to provide relevant documents within your possession. If you have additional evidence regarding the allegations in the first amended charge and you have not yet scheduled a date and time for the Board agent to obtain that evidence, please contact the Board agent to arrange to present that evidence. If you fail to cooperate in promptly presenting your evidence, your charge may be dismissed.

Preservation of all Potential Evidence: Please be mindful of your obligation to preserve all relevant documents and electronically stored information (ESI) in this case, and to take all steps necessary to avoid the inadvertent loss of information in your possession, custody or control. Relevant information includes, but is not limited to, paper documents and all ESI (e.g. SMS text messages, electronic documents, emails, and any data created by proprietary software tools) related to the above-captioned case.

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Procedures: Pursuant to Section 102.5 of the Board's Rules and Regulations, parties must submit all documentary evidence, including statements of position, exhibits, sworn statements, and/or other evidence, by electronically submitting (E-Filing) them through the Agency's web site (www.nlrb.gov). You must e-file all documents electronically or provide a

written statement explaining why electronic submission is not possible or feasible. Failure to comply with Section 102.5 will result in rejection of your submission. The Region will make its determination on the merits solely based on the evidence properly submitted. All evidence submitted electronically should be in the form in which it is normally used and maintained in the course of business (i.e., native format). Where evidence submitted electronically is not in native format, it should be submitted in a manner that retains the essential functionality of the native format (i.e., in a machine-readable and searchable electronic format). If you have questions about the submission of evidence or expect to deliver a large quantity of electronic records, please promptly contact the Board agent investigating the charge.

If the Agency does not issue a formal complaint in this matter, parties will be notified of the Regional Director's decision by email. Please ensure that the agent handling your case has your current email address.

Very truly yours,

A handwritten signature in cursive script that reads "Thomas Goonan".

Thomas Goonan
Regional Director

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD
CHARGE AGAINST EMPLOYER

DO NOT WRITE IN THIS SPACE	
Case 04-CA-291283	Date Filed 2/25/22

INSTRUCTIONS:

File an original with NLRB Regional Director for the region in which the alleged unfair labor practice occurred or is occurring.

1. EMPLOYER AGAINST WHOM CHARGE IS BROUGHT

a. Name of Employer GFP Mobile Mix Supply, LLC		b. Tel. No. 302-998-7687
		c. Cell No. (b) (6), (b) (7)(C)
		f. Fax. No.
d. Address (Street, city, state, and ZIP code) 14 Hadco Rd. Wilmington, DE 19804	e. Employer Representative (b) (6), (b) (7)(C)	g. e-mail (b) (6), (b) (7)(C)@gfpccement.com
		h. Number of workers employed 7
i. Type of Establishment (factory, mine, wholesaler, etc.) Concrete Mixing	j. Identify principal product or service concrete	

The above-named employer has engaged in and is engaging in unfair labor practices within the meaning of section 8(a), subsections (1) and (list subsections) (3) of the National Labor Relations Act, and these unfair labor practices are practices affecting commerce within the meaning of the Act, or these unfair labor practices are practices affecting commerce within the meaning of the Act and the Postal Reorganization Act.

2. Basis of the Charge (set forth a clear and concise statement of the facts constituting the alleged unfair labor practices)

On or about (b) (6), (b) (7)(C)-22, the above named employer disciplined, demoted and then terminated (b) (6), (b) (7)(C) in violation of the Act.

3. Full name of party filing charge (if labor organization, give full name, including local name and number)

International Union of Operating Engineers; Local 542

4a. Address (Street and number, city, state, and ZIP code) 1375 Virginia Dr. Suite 100 Fort Washington, PA 19034	4b. Tel. No. 215-542-7500
	4c. Cell No. 215-260-4627
	4d. Fax No. 215-591-0978
	4e. e-mail john.epperson@iuoe542.com

5. Full name of national or international labor organization of which it is an affiliate or constituent unit (to be filled in when charge is filed by a labor organization)

International Union of Operating Engineers; Local 542 AFL-CIO

6. DECLARATION

I declare that I have read the above charge and that the statements are true to the best of my knowledge and belief.

John Epperson

(signature of representative of person making charge)

(Print/type name and title or office, if any)

Tel. No. 215-542-7500
Office, if any, Cell No. 215-260-4627
Fax No.
e-mail john.epperson@iuoe542.com

Address 1375 Virginia Dr., Ste 100 Ft. Washington PA 19034

Date 2-25-22

**WILLFUL FALSE STATEMENTS ON THIS CHARGE CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)
PRIVACY ACT STATEMENT**

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UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD
AMENDED CHARGE AGAINST
EMPLOYER

DO NOT WRITE IN THIS SPACE

Case
04-CA-291283Date Filed
3/16/22

INSTRUCTIONS:

File an original with NLRB Regional Director for the region in which the alleged unfair labor practice occurred or is occurring.

1. EMPLOYER AGAINST WHOM CHARGE IS BROUGHT

a. Name of Employer GFP Mobile Mix Supply, LLC		b. Tel. No. 302-998-7687
		c. Cell No. (b) (6), (b) (7)(C)
		f. Fax No.
d. Address (Street, city, state, and ZIP code) 14 Hadco Road Wilmington, DE 19804	e. Employer Representative (b) (6), (b) (7)(C)	g. e-mail (b) (6), (b) (7)(C)@gfpccement.com
		h. Number of workers employed 7
i. Type of Establishment (factory, mine, wholesaler, etc.) Concrete mixing	j. Identify principal product or service Concrete	

The above-named employer has engaged in and is engaging in unfair labor practices within the meaning of section 8(a), subsections (1) and (1st subsections) (3) of the National Labor Relations Act, and these unfair labor practices are practices affecting commerce within the meaning of the Act, or these unfair labor practices are practices affecting commerce within the meaning of the Act and the Postal Reorganization Act.

2. Basis of the Charge (set forth a clear and concise statement of the facts constituting the alleged unfair labor practices)

Between around November 2021 to around February 2022, the Employer reduced the hours of full-time night-shift employees in retaliation for and in order to discourage employees' union activity and/or support for the Union. Around December 2022, the Employer threatened employee (b) (6), (b) (7)(C) that the Employer would reduce employees' hours and impose stricter disciplinary policies if employees voted to be represented by the Union. The Employer demoted (b) (6), (b) (7)(C) around (b) (6), (b) (7)(C) 2022, disciplined (b) (6), (b) (7)(C) around (b) (6), (b) (7)(C) 2022, and discharged (b) (6), (b) (7)(C) around (b) (6), (b) (7)(C) 2022, in each case in retaliation for and in order to discourage employees from engaging in union activity and/or support for the Union.

3. Full name of party filing charge (if labor organization, give full name, including local name and number)

International Union of Operating Engineers, Local 542

4a. Address (Street and number, city, state, and ZIP code) 1375 Virginia Dr. Suite 100 Fort Washington, PA 19034	4b. Tel. No. 215-542-7500
	4c. Cell No. 215-260-4627
	4d. Fax No. 215-590-0978
	4e. e-mail john.epperson@iuoe542.com

5. Full name of national or international labor organization of which it is an affiliate or constituent unit (to be filled in when charge is filed by a labor organization)

6. DECLARATION

I declare that I have read the above charge and that the statements are true to the best of my knowledge and belief.

John Epperson

(Sign of representative or person making charge)

(Print/type name and title or office, if any)

Tel. No.
215-542-7500Office, if any, Cell No.
215-260-4727

Fax No.

e-mail
john.epperson@iuoe542.comAddress 1375 Virginia Dr. Ste 100 Fort Washington PA
19034

Date 3-16-22

WILLFUL FALSE STATEMENTS ON THIS CHARGE CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)
PRIVACY ACT STATEMENT

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UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

REGION 4
100 E Penn Square
Suite 403
Philadelphia, PA 19107

Agency Website: www.nlrb.gov
Telephone: (215)597-7601
Fax: (215)597-7658



Download
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Mobile App

March 16, 2022

(b) (6), (b) (7)(C)

GFP Mobile Mix Supply, LLC
14 Hadco Road
Wilmington, DE 19804

Re: GFP Mobile Mix Supply, LLC
Case 04-CA-291283

Dear (b) (6), (b) (7)(C):

Enclosed is a copy of the first amended charge that has been filed in this case.

Investigator: This charge is being investigated by Field Attorney Nicholas S. Allen whose telephone number is (215)597-9711. If the agent is not available, you may contact Supervisory Attorney PATRICIA A. GARBER whose telephone number is (215)597-7625.

Presentation of Your Evidence: As you know, we seek prompt resolutions of labor disputes. Therefore, I urge you or your representative to submit a complete written account of the facts and a statement of your position with respect to the allegations in the first amended charge as soon as possible. If the Board agent later asks for more evidence, I strongly urge you or your representative to cooperate fully by promptly presenting all evidence relevant to the investigation. In this way, the case can be fully investigated more quickly.

Preservation of all Potential Evidence: Please be mindful of your obligation to preserve all relevant documents and electronically stored information (ESI) in this case, and to take all steps necessary to avoid the inadvertent loss of information in your possession, custody or control. Relevant information includes, but is not limited to, paper documents and all ESI (e.g. SMS text messages, electronic documents, emails, and any data created by proprietary software tools) related to the above-captioned case.

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Procedures: Pursuant to Section 102.5 of the Board's Rules and Regulations, parties must submit all documentary evidence, including statements of position, exhibits, sworn statements, and/or other evidence, by electronically submitting (E-Filing) them through the Agency's web site (www.nlrb.gov). You must e-file all documents electronically or provide a written statement explaining why electronic submission is not possible or feasible. Failure to comply with Section 102.5 will result in rejection of your submission. The Region will make its

determination on the merits solely based on the evidence properly submitted. All evidence submitted electronically should be in the form in which it is normally used and maintained in the course of business (i.e., native format). Where evidence submitted electronically is not in native format, it should be submitted in a manner that retains the essential functionality of the native format (i.e., in a machine-readable and searchable electronic format). If you have questions about the submission of evidence or expect to deliver a large quantity of electronic records, please promptly contact the Board agent investigating the charge.

If the Agency does not issue a formal complaint in this matter, parties will be notified of the Regional Director's decision by email. Please ensure that the agent handling your case has your current email address.

Very truly yours,

A handwritten signature in black ink that reads "Thomas Goonan". The signature is written in a cursive, flowing style.

Thomas Goonan
Regional Director

Enclosure: Copy of first amended charge

cc: Robert C Nagle, Esquire
Fox Rothschild LLP
10 Sentry Parkway, Suite 2000
Blue Bell, PA 19422

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD

GFP MOBILE MIX SUPPLY, LLC

Charged Party

and

**INTERNATIONAL UNION OF OPERATING
ENGINEERS LOCAL 542**

Charging Party

Case 04-CA-291283

AFFIDAVIT OF SERVICE OF FIRST AMENDED CHARGE AGAINST EMPLOYER

I, the undersigned employee of the National Labor Relations Board, being duly sworn, say that on March 16, 2022, I served the above-entitled document(s) by regular mail upon the following persons, addressed to them at the following addresses:

(b) (6), (b) (7)(C)

GFP Mobile Mix Supply, LLC
14 Hadco Road
Wilmington, DE 19804

Robert C Nagle, Esquire
Fox Rothschild LLP
10 Sentry Parkway, Suite 2000
Blue Bell, PA 19422

March 16, 2022

Date

Lorraine Y. Murray
Designated Agent of NLRB

Name

/s/ Lorraine Y. Murray

Signature



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

REGION 4
100 E Penn Square
Suite 403
Philadelphia, PA 19107

Agency Website: www.nlrb.gov
Telephone: (215)597-7601
Fax: (215)597-7658



Download
NLRB
Mobile App

March 16, 2022

John Epperson, Business Agent
International Union of Operating
Engineers Local 542
1375 Virginia Drive, Suite 100
Fort Washington, PA 19034

Re: GFP Mobile Mix Supply, LLC
Case 04-CA-291283

Dear Mr. Epperson:

We have docketed the first amended charge that you filed in this case.

Investigator: This charge is being investigated by Field Attorney Nicholas S. Allen whose telephone number is (215)597-9711. If the agent is not available, you may contact Supervisory Attorney PATRICIA A. GARBER whose telephone number is (215)597-7625.

Presentation of Your Evidence: As the party who filed the charge in this case, it is your responsibility to meet with the Board agent to provide a sworn affidavit, or provide other witnesses to provide sworn affidavits, and to provide relevant documents within your possession. If you have additional evidence regarding the allegations in the first amended charge and you have not yet scheduled a date and time for the Board agent to obtain that evidence, please contact the Board agent to arrange to present that evidence. If you fail to cooperate in promptly presenting your evidence, your charge may be dismissed.

Preservation of all Potential Evidence: Please be mindful of your obligation to preserve all relevant documents and electronically stored information (ESI) in this case, and to take all steps necessary to avoid the inadvertent loss of information in your possession, custody or control. Relevant information includes, but is not limited to, paper documents and all ESI (e.g. SMS text messages, electronic documents, emails, and any data created by proprietary software tools) related to the above-captioned case.

Prohibition on Recording Affidavit Interviews: It is the policy of the General Counsel to prohibit affiants from recording the interview conducted by Board agents when subscribing Agency affidavits. Such recordings may impede the Agency's ability to safeguard the confidentiality of the affidavit itself, protect the privacy of the affiant and potentially compromise the integrity of the Region's investigation.

Procedures: Pursuant to Section 102.5 of the Board's Rules and Regulations, parties must submit all documentary evidence, including statements of position, exhibits, sworn statements, and/or other evidence, by electronically submitting (E-Filing) them through the Agency's web site (www.nlrb.gov). You must e-file all documents electronically or provide a

written statement explaining why electronic submission is not possible or feasible. Failure to comply with Section 102.5 will result in rejection of your submission. The Region will make its determination on the merits solely based on the evidence properly submitted. All evidence submitted electronically should be in the form in which it is normally used and maintained in the course of business (i.e., native format). Where evidence submitted electronically is not in native format, it should be submitted in a manner that retains the essential functionality of the native format (i.e., in a machine-readable and searchable electronic format). If you have questions about the submission of evidence or expect to deliver a large quantity of electronic records, please promptly contact the Board agent investigating the charge.

If the Agency does not issue a formal complaint in this matter, parties will be notified of the Regional Director's decision by email. Please ensure that the agent handling your case has your current email address.

Very truly yours,

A handwritten signature in cursive script that reads "Thomas Goonan".

Thomas Goonan
Regional Director

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD
CHARGE AGAINST EMPLOYER

DO NOT WRITE IN THIS SPACE	
Case 04-CA-291325	Date Filed 2/25/22

INSTRUCTIONS:

File an original with NLRB Regional Director for the region in which the alleged unfair labor practice occurred or is occurring.

1. EMPLOYER AGAINST WHOM CHARGE IS BROUGHT	
a. Name of Employer GFP Mobile Mix Supply, LLC	b. Tel. No. 302-998-7687
	c. Cell No. (b) (6), (b) (7)(C)
	f. Fax. No.
d. Address (Street, city, state, and ZIP code) 14 Hadco Rd. Wilmington, DE 19804	e. Employer Representative (b) (6), (b) (7)(C)
	g. e-mail (b) (6), (b) (7)(C)@gfpcement.com
	h. Number of workers employed 7
i. Type of Establishment (factory, mine, wholesaler, etc.) Concrete Mixing	j. Identify principal product or service concrete
<p>The above-named employer has engaged in and is engaging in unfair labor practices within the meaning of section 8(a), subsections (1) and (1st subsections) (1) of the National Labor Relations Act, and these unfair labor practices are practices affecting commerce within the meaning of the Act, or these unfair labor practices are practices affecting commerce within the meaning of the Act and the Postal Reorganization Act.</p>	
<p>2. Basis of the Charge (set forth a clear and concise statement of the facts constituting the alleged unfair labor practices)</p> <p>On or about January 2022, the above named Employer violated the Act by interrogating an employee about the Union activities of other employees.</p>	
<p>3. Full name of party filing charge (if labor organization, give full name, including local name and number)</p> <p>International Union of Operating Engineers; Local 542</p>	
4a. Address (Street and number, city, state, and ZIP code) 1375 Virginia Dr. Suite 100 Fort Washington, PA 19034	4b. Tel. No. 215-542-7500
	4c. Cell No. 215-260-4627
	4d. Fax No. 215-591-0978
	4e. e-mail john.epperson@iuoe542.com
<p>5. Full name of national or international labor organization of which it is an affiliate or constituent unit (to be filled in when charge is filed by a labor organization)</p> <p>International Union of Operating Engineers; Local 542 AFL-CIO</p>	
<p>6. DECLARATION</p> <p>I declare that I have read the above charge and that the statements are true to the best of my knowledge and belief.</p> <p> John Epperson</p> <p>(signature of representative or person making charge) (Print/type name and title or office, if any)</p> <p>1375 Virgina Dr., Ste 100 Ft. Washington PA 19034 2-25-22</p> <p>Address Date</p>	
<p>Tel. No. 215-542-7500</p> <p>Office, if any, Cell No. 215-260-4627</p> <p>Fax No.</p> <p>e-mail john.epperson@iuoe542.com</p>	

WILLFUL FALSE STATEMENTS ON THIS CHARGE CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)
PRIVACY ACT STATEMENT

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing unfair labor practice and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary; however, failure to supply the information may cause the NLRB to decline to invoke its processes.

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD
**AMENDED CHARGE AGAINST
EMPLOYER**

DO NOT WRITE IN THIS SPACE

Case
04-CA-291325Date Filed
3/16/22**INSTRUCTIONS:**

File an original with NLRB Regional Director for the region in which the alleged unfair labor practice occurred or is occurring.

1. EMPLOYER AGAINST WHOM CHARGE IS BROUGHT

a. Name of Employer GFP Mobile Mix Supply, LLC		b. Tel. No. 302-998-7687
		c. Cell No. (b) (6), (b) (7)(C)
		f. Fax No.
d. Address (Street, city, state, and ZIP code) 14 Hadco Road Wilmington, DE 19804	e. Employer Representative (b) (6), (b) (7)(C)	g. e-mail (b) (6), (b) (7)(C)@gfpccement.com
		h. Number of workers employed 7
i. Type of Establishment (factory, mine, wholesaler, etc.) Concrete mixing	j. Identify principal product or service Concrete	

The above-named employer has engaged in and is engaging in unfair labor practices within the meaning of section 8(a), subsections (1) and (list subsections) ~~3XX~~ of the National Labor Relations Act, and these unfair labor practices are practices affecting commerce within the meaning of the Act, or these unfair labor practices are practices affecting commerce within the meaning of the Act and the Postal Reorganization Act.

2. Basis of the Charge (set forth a clear and concise statement of the facts constituting the alleged unfair labor practices)

In captive audience meetings between around November 2021 and January 2022, the Employer interrogated employees about their own and other employees' union activity, support for the union, and whether they intended to vote for against representation by the Union.

Between around November 2021 and January 2022, the Employer solicited employees' grievances and implicitly promised to remedy those grievances if employees voted against representation by the Union.

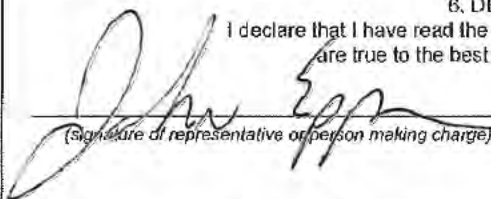
Around January 2022, the Employer interrogated an employee about other employees' union activities, creating an impression of surveillance of employees' union activities.

3. Full name of party filing charge (if labor organization, give full name, including local name and number)
International Union of Operating Engineers, Local 542

4a. Address (Street and number, city, state, and ZIP code) 1375 Virginia Dr. Suite 100 Fort Washington, PA 19034	4b. Tel. No. 215-542-7500
	4c. Cell No. 215-260-4627
	4d. Fax No. 215-590-0978
	4e. e-mail john.epperson@iuoe542.com

5. Full name of national or international labor organization of which it is an affiliate or constituent unit (to be filled in when charge is filed by a labor organization)**6. DECLARATION**

I declare that I have read the above charge and that the statements are true to the best of my knowledge and belief.


(Signature of representative of person making charge)**John Epperson**

(Print/type name and title or office, if any)

Tel. No.
215-542-7500Office, if any, Cell No.
215-260-4727

Fax No.

e-mail
john.epperson@iuoe542.comAddress 1375 Virginia Drive Ste 100 Fort Washington PA Date 3-16-22
19034**WILLFUL FALSE STATEMENTS ON THIS CHARGE CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)
PRIVACY ACT STATEMENT**

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UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

REGION 4
100 E Penn Square
Suite 403
Philadelphia, PA 19107

Agency Website: www.nlr.gov
Telephone: (215)597-7601
Fax: (215)597-7658



Download
NLRB
Mobile App

March 16, 2022

(b) (6), (b) (7)(C)

GFP Mobile Mix Supply, LLC
14 Hadco Road
Wilmington, DE 19804

Re: GFP Mobile Mix Supply, LLC
Case 04-CA-291325

Dear (b) (6), (b) (7)(C):

Enclosed is a copy of the first amended charge that has been filed in this case.

Investigator: This charge is being investigated by Field Attorney Nicholas S. Allen whose telephone number is (215)597-9711. If the agent is not available, you may contact Supervisory Attorney PATRICIA A. GARBER whose telephone number is (215)597-7625.

Presentation of Your Evidence: As you know, we seek prompt resolutions of labor disputes. Therefore, I urge you or your representative to submit a complete written account of the facts and a statement of your position with respect to the allegations in the first amended charge as soon as possible. If the Board agent later asks for more evidence, I strongly urge you or your representative to cooperate fully by promptly presenting all evidence relevant to the investigation. In this way, the case can be fully investigated more quickly.

Preservation of all Potential Evidence: Please be mindful of your obligation to preserve all relevant documents and electronically stored information (ESI) in this case, and to take all steps necessary to avoid the inadvertent loss of information in your possession, custody or control. Relevant information includes, but is not limited to, paper documents and all ESI (e.g. SMS text messages, electronic documents, emails, and any data created by proprietary software tools) related to the above-captioned case.

Prohibition on Recording Affidavit Interviews: It is the policy of the General Counsel to prohibit affiants from recording the interview conducted by Board agents when subscribing Agency affidavits. Such recordings may impede the Agency's ability to safeguard the confidentiality of the affidavit itself, protect the privacy of the affiant and potentially compromise the integrity of the Region's investigation.

Procedures: Pursuant to Section 102.5 of the Board's Rules and Regulations, parties must submit all documentary evidence, including statements of position, exhibits, sworn statements, and/or other evidence, by electronically submitting (E-Filing) them through the Agency's web site (www.nlr.gov). You must e-file all documents electronically or provide a written statement explaining why electronic submission is not possible or feasible. Failure to comply with Section 102.5 will result in rejection of your submission. The Region will make its

determination on the merits solely based on the evidence properly submitted. All evidence submitted electronically should be in the form in which it is normally used and maintained in the course of business (i.e., native format). Where evidence submitted electronically is not in native format, it should be submitted in a manner that retains the essential functionality of the native format (i.e., in a machine-readable and searchable electronic format). If you have questions about the submission of evidence or expect to deliver a large quantity of electronic records, please promptly contact the Board agent investigating the charge.

If the Agency does not issue a formal complaint in this matter, parties will be notified of the Regional Director's decision by email. Please ensure that the agent handling your case has your current email address.

Very truly yours,

A handwritten signature in black ink that reads "Thomas Goonan". The signature is written in a cursive, flowing style.

Thomas Goonan
Regional Director

Enclosure: Copy of first amended charge

cc: Robert C Nagle, Esquire
Fox Rothschild LLP
10 Sentry Parkway, Suite 2000
Blue Bell, PA 19422

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD

GFP MOBILE MIX SUPPLY, LLC

Charged Party

and

**INTERNATIONAL UNION OF OPERATING
ENGINEERS LOCAL 542**

Charging Party

Case 04-CA-291325

AFFIDAVIT OF SERVICE OF FIRST AMENDED CHARGE AGAINST EMPLOYER

I, the undersigned employee of the National Labor Relations Board, being duly sworn, say that on March 16, 2022, I served the above-entitled document(s) by regular mail upon the following persons, addressed to them at the following addresses:

(b) (6), (b) (7)(C)

GFP Mobile Mix Supply, LLC
14 Hadco Road
Wilmington, DE 19804

Robert C Nagle, Esquire
Fox Rothschild LLP
10 Sentry Parkway, Suite 2000
Blue Bell, PA 19422

March 16, 2022

Date

Lorraine Y. Murray
Designated Agent of NLRB

Name

/s/ Lorraine Y. Murray

Signature



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

REGION 4
100 E Penn Square
Suite 403
Philadelphia, PA 19107

Agency Website: www.nlr.gov
Telephone: (215)597-7601
Fax: (215)597-7658



Download
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Mobile App

March 16, 2022

John Epperson, Business Agent
International Union of Operating
Engineers Local 542
1375 Virginia Drive, Suite 100
Fort Washington, PA 19034

Re: GFP Mobile Mix Supply, LLC
Case 04-CA-291325

Dear Mr. Epperson:

We have docketed the first amended charge that you filed in this case.

Investigator: This charge is being investigated by Field Attorney Nicholas S. Allen whose telephone number is (215)597-9711. If the agent is not available, you may contact Supervisory Attorney PATRICIA A. GARBER whose telephone number is (215)597-7625.

Presentation of Your Evidence: As the party who filed the charge in this case, it is your responsibility to meet with the Board agent to provide a sworn affidavit, or provide other witnesses to provide sworn affidavits, and to provide relevant documents within your possession. If you have additional evidence regarding the allegations in the first amended charge and you have not yet scheduled a date and time for the Board agent to obtain that evidence, please contact the Board agent to arrange to present that evidence. If you fail to cooperate in promptly presenting your evidence, your charge may be dismissed.

Preservation of all Potential Evidence: Please be mindful of your obligation to preserve all relevant documents and electronically stored information (ESI) in this case, and to take all steps necessary to avoid the inadvertent loss of information in your possession, custody or control. Relevant information includes, but is not limited to, paper documents and all ESI (e.g. SMS text messages, electronic documents, emails, and any data created by proprietary software tools) related to the above-captioned case.

Prohibition on Recording Affidavit Interviews: It is the policy of the General Counsel to prohibit affiants from recording the interview conducted by Board agents when subscribing Agency affidavits. Such recordings may impede the Agency's ability to safeguard the confidentiality of the affidavit itself, protect the privacy of the affiant and potentially compromise the integrity of the Region's investigation.

Procedures: Pursuant to Section 102.5 of the Board's Rules and Regulations, parties must submit all documentary evidence, including statements of position, exhibits, sworn statements, and/or other evidence, by electronically submitting (E-Filing) them through the Agency's web site (www.nlr.gov). You must e-file all documents electronically or provide a

written statement explaining why electronic submission is not possible or feasible. Failure to comply with Section 102.5 will result in rejection of your submission. The Region will make its determination on the merits solely based on the evidence properly submitted. All evidence submitted electronically should be in the form in which it is normally used and maintained in the course of business (i.e., native format). Where evidence submitted electronically is not in native format, it should be submitted in a manner that retains the essential functionality of the native format (i.e., in a machine-readable and searchable electronic format). If you have questions about the submission of evidence or expect to deliver a large quantity of electronic records, please promptly contact the Board agent investigating the charge.

If the Agency does not issue a formal complaint in this matter, parties will be notified of the Regional Director's decision by email. Please ensure that the agent handling your case has your current email address.

Very truly yours,

A handwritten signature in cursive script that reads "Thomas Goonan". The signature is written in dark ink and is positioned below the typed name.

Thomas Goonan
Regional Director

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD
CHARGE AGAINST EMPLOYER

DO NOT WRITE IN THIS SPACE	
Case	04-CA-292379
Date Filed	3-16-22

INSTRUCTIONS:

File an original with NLRB Regional Director for the region in which the alleged unfair labor practice occurred or is occurring.

1. EMPLOYER AGAINST WHOM CHARGE IS BROUGHT

a. Name of Employer GFP Mobile Mix Supply, LLC		b. Tel. No. 302-998-7687
		c. Cell No. (b) (6), (b) (7)(C)
d. Address (Street, city, state, and ZIP code) 14 Hadco Road Wilmington, DE 19804		f. Fax No.
		g. e-mail (b) (6), (b) (7)(C) @gfpccement.com
		h. Number of workers employed 7
e. Employer Representative (b) (6), (b) (7)(C)		
i. Type of Establishment (factory, mine, wholesaler, etc.) Concrete mixing	j. Identify principal product or service Concrete	

The above-named employer has engaged in and is engaging in unfair labor practices within the meaning of section 8(a), subsections (1) and (list subsections) (3) of the National Labor Relations Act, and these unfair labor practices are practices affecting commerce within the meaning of the Act, or these unfair labor practices are practices affecting commerce within the meaning of the Act and the Postal Reorganization Act.

2. Basis of the Charge (set forth a clear and concise statement of the facts constituting the alleged unfair labor practices)
Around December 2022, the Employer, through (b) (6), (b) (7)(C), coerced, interfered with, and/or restrained employee (b) (6), (b) (7)(C) in the exercise of rights protected by Section 7 of the Act by threatening that the Employer wanted to discharge (b) (6), (b) (7)(C) telling (b) (6), (b) (7)(C) that (b) (6), (b) (7)(C) prevented (b) (6) discharge, and warning (b) (6), (b) (7)(C) to be careful.

Around (b) (6), (b) (7)(C) 2022, the Employer discharged (b) (6), (b) (7)(C) in retaliation for and in order to discourage employees from engaging in union activity or support for the Union.

3. Full name of party filing charge (if labor organization, give full name, including local name and number)
International Union of Operating Engineers, Local 542

4a. Address (Street and number, city, state, and ZIP code) 1375 Virginia Dr. Suite 100 Fort Washington, PA 19034	4b. Tel. No. 215-542-7500
	4c. Cell No. 215-260-4627
	4d. Fax No. 215-590-0978
	4e. e-mail john.epperson@iuoe542.com

5. Full name of national or international labor organization of which it is an affiliate or constituent unit (to be filled in when charge is filed by a labor organization)
International Union of Operating Engineers, Local 542 AFL-CIO

6. DECLARATION

I declare that I have read the above charge and that the statements are true to the best of my knowledge and belief.

John Epperson

(signature of representative or person making charge)

(Print/Type name and title or office, if any)

Tel. No.
215-542-7500

Office, if any, Cell No.
215-260-4727

Fax No.

e-mail
john.epperson@iuoe542.com

Address 1375 Virginia Dr. Ste 100 Fort Washington PA 19034 Date 3-16-22

WILLFUL, FALSE STATEMENTS ON THIS CHARGE CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)
PRIVACY ACT STATEMENT

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing unfair labor practice and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary; however, failure to supply the information may cause the NLRB to decline to invoke its processes.

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD
CHARGE AGAINST EMPLOYER

DO NOT WRITE IN THIS SPACE	
Case 04-CA-291287	Date Filed 2/25/22

INSTRUCTIONS:

File an original with NLRB Regional Director for the region in which the alleged unfair labor practice occurred or is occurring.

1. EMPLOYER AGAINST WHOM CHARGE IS BROUGHT	
a. Name of Employer GFP Mobile Mix Supply, LLC	b. Tel. No. 302-998-7687
	c. Cell No. (b) (6), (b) (7)(C)
	f. Fax. No.
d. Address (Street, city, state, and ZIP code) 14 Hadco Rd. Wilmington, DE 19804	e. Employer Representative (b) (6), (b) (7)(C)
	g. e-mail (b) (6), (b) (7)(C)@gfpccement.com
	h. Number of workers employed 7
i. Type of Establishment (factory, mine, wholesaler, etc.) Concrete Mixing	j. Identify principal product or service concrete
<p>The above-named employer has engaged in and is engaging in unfair labor practices within the meaning of section 8(a), subsections (1) and (list subsections) (3) of the National Labor Relations Act, and these unfair labor practices are practices affecting commerce within the meaning of the Act, or these unfair labor practices are practices affecting commerce within the meaning of the Act and the Postal Reorganization Act.</p>	
<p>2. Basis of the Charge (set forth a clear and concise statement of the facts constituting the alleged unfair labor practices) On or about (b) (6), (b) (7)(C) 2022, the above named employer violated the Act by terminating (b) (6), (b) (7)(C)</p>	
<p>3. Full name of party filing charge (if labor organization, give full name, including local name and number) International Union of Operating Engineers; Local 542</p>	
4a. Address (Street and number, city, state, and ZIP code) 1375 Virginia Dr. Suite 100 Fort Washington, PA 19034	<p>4b. Tel. No. 215-542-7500</p> <p>4c. Cell No. 215-260-4627</p> <p>4d. Fax No. 215-591-0978</p> <p>4e. e-mail john.epperson@iuoe542.com</p>
<p>5. Full name of national or international labor organization of which it is an affiliate or constituent unit (to be filled in when charge is filed by a labor organization) International Union of Operating Engineers; Local 542 AFL-CIO</p>	
<p>6. DECLARATION</p> <p>I declare that I have read the above charge and that the statements are true to the best of my knowledge and belief.</p> <p> John Epperson (signature of representative or person making charge) (Print/type name and title or office, if any)</p> <p>1375 Virginia Dr., Ste 100 Ft. Washington PA 19034 Address Date 2-25-22</p>	
<p>Tel. No. 215-542-7500</p> <p>Office, if any, Cell No. 215-260-4627</p> <p>Fax No.</p> <p>e-mail john.epperson@iuoe542.com</p>	

WILLFUL FALSE STATEMENTS ON THIS CHARGE CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)
PRIVACY ACT STATEMENT

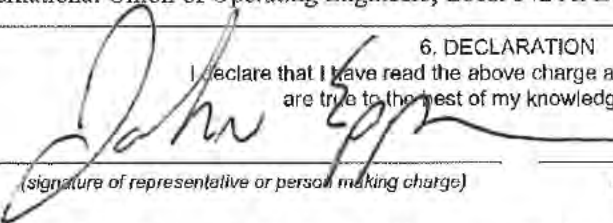
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UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD
CHARGE AGAINST EMPLOYER

DO NOT WRITE IN THIS SPACE	
Case 04-CA-291282	Date Filed 2/25/22

INSTRUCTIONS:

File an original with NLRB Regional Director for the region in which the alleged unfair labor practice occurred or is occurring.

1. EMPLOYER AGAINST WHOM CHARGE IS BROUGHT	
a. Name of Employer GFP Mobile Mix Supply, LLC	b. Tel. No. 302-998-7687
	c. Cell No. (b) (6), (b) (7)(C)
	f. Fax No.
d. Address (Street, city, state, and ZIP code) 14 Hadco Rd. Wilmington, DE 19804	e. Employer Representative (b) (6), (b) (7)(C)
	g. e-mail (b) (6), (b) (7)(C)@gfpccement.com
	h. Number of workers employed 7
i. Type of Establishment (factory, mine, wholesaler, etc.) Concrete Mixing	j. Identify principal product or service concrete
The above-named employer has engaged in and is engaging in unfair labor practices within the meaning of section 8(a), subsections (1) and (list subsections) (3) of the National Labor Relations Act, and these unfair labor practices are practices affecting commerce within the meaning of the Act, or these unfair labor practices are practices affecting commerce within the meaning of the Act and the Postal Reorganization Act.	
2. Basis of the Charge (set forth a clear and concise statement of the facts constituting the alleged unfair labor practices) On or about (b) (6), (b) (7)(C)-22, the above named employer terminated (b) (6), (b) (7)(C) in violation of the Act.	
3. Full name of party filing charge (if labor organization, give full name, including local name and number) International Union of Operating Engineers; Local 542	
4a. Address (Street and number, city, state, and ZIP code) 1375 Virginia Dr. Suite 100 Fort Washington, PA 19034	4b. Tel. No. 215-542-7500
	4c. Cell No. 215-260-4627
	4d. Fax No. 215-591-0978
	4e. e-mail john.epperson@iuoe542.com
5. Full name of national or international labor organization of which it is an affiliate or constituent unit (to be filled in when charge is filed by a labor organization) International Union of Operating Engineers; Local 542 AFL-CIO	
6. DECLARATION I declare that I have read the above charge and that the statements are true to the best of my knowledge and belief.  John Epperson (signature of representative or person making charge) (Print/type name and title or office, if any)	
1375 Virginia Dr., Ste 100 Ft. Washington PA 19034 Address Date 2-25-22	
Tel. No. 215-542-7500	
Office, if any, Cell No. 215-260-4627	
Fax No.	
e-mail john.epperson@iuoe542.com	

WILLFUL FALSE STATEMENTS ON THIS CHARGE CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)
PRIVACY ACT STATEMENT

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UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD
**CHARGE AGAINST LABOR ORGANIZATION
OR ITS AGENTS****DO NOT WRITE IN THIS SPACE**Case
04-CB-313718Date Filed
03/09/2023**INSTRUCTIONS:** File an original with NLRB Regional Director for the region in which the alleged unfair labor practice occurred or is occurring.**1. LABOR ORGANIZATION OR ITS AGENTS AGAINST WHICH CHARGE IS BROUGHT**

a. Name IUOE Local 542	b. Union Representative to contact (b) (6), (b) (7)(C)		
c. Address (Street, city, state, and ZIP code) 1375 Virginia Drive, Suite 100 Fort Washington, PA 19034	d. Tel. No. (b) (6), (b) (7)(C)	e. Cell No. -	
	f. Fax No. -		
	g. e-mail (b) (6), (b) (7)(C)@iuoe542.com		

h. The above-named labor organization has engaged in and is engaging in unfair labor practices within the meaning of section 8(b) and (list subsections) (1)(A) of the National Labor Relations Act, and these unfair labor practices are practices affecting commerce within the meaning of the Act, or these unfair labor practices are practices affecting commerce within the meaning of the Act and the Postal Reorganization Act.

2. Basis of the Charge (set forth a clear and concise statement of the facts constituting the alleged unfair labor practices)

On December 5, 2023, a Union representative threatened physical violence against Charging Party due to Charging Party's decision to refrain from union activity.

3. Name of Employer GFP Mobile Mix Supply, LLC	4a. Tel. No. 302-998-7687	b. Cell No. -	c. Fax No. -
	d. e-mail SRPaisner@paisnerlitvin.com		

5. Location of plant involved (street, city, state and ZIP code) 14 Hadco Rd, Wilmington, DE 19804	6. Employer representative to contact Steven Paisner
---	---

7. Type of establishment (factory, mine, wholesaler, etc.) Construction	8. Identify principal product or service Concrete	9. Number of workers employed 9
--	--	------------------------------------

10. Full name of party filing charge (b) (6), (b) (7)(C)

11. Address of party filing charge (street, city, state and ZIP code) (b) (6), (b) (7)(C)	11a. Tel. No. -	b. Cell No. (b) (6), (b) (7)(C)	c. Fax No. -
	d. e-mail (b) (6), (b) (7)(C)		

12. DECLARATION

I declare that I have read the above charge and that the statements are true to the best of my knowledge and belief.



Byron Andrus, Staff Attorney

(signature of representative or person making charge)

(Print/type name and title or office, if any)

National Right to Work Legal Defense Foundation
8001 Braddock Rd, Springfield, VA 22160

Address _____

Date 3/8/2023

Tel. No.
(703) 770-3377Cell No.
-Fax No.
-e-mail
bsa@nrtw.org**WILLFUL FALSE STATEMENTS ON THIS CHARGE CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)
PRIVACY ACT STATEMENT**

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing unfair labor practice and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary; however, failure to supply the information may cause the NLRB to decline to invoke its processes.



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

REGION 4
100 E Penn Square
Suite 403
Philadelphia, PA 19107

Agency Website: www.nlr.gov
Telephone: (215)597-7601
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March 9, 2023

(b) (6), (b) (7)(C)

Re: IUOE Local 542
(GFP Mobile Mix Supply, LLC)
Case 04-CB-313718

Dear (b) (6), (b) (7)(C):

The charge that you filed in this case on March 08, 2023 has been docketed as case number 04-CB-313718. This letter tells you how to contact the Board agent who will be investigating the charge, explains your right to be represented, discusses presenting your evidence, and provides a brief explanation of our procedures, including how to submit documents to the NLRB.

Investigator: This charge is being investigated by Field Examiner MARY R. LEACH whose telephone number is (215)597-9676. If this Board agent is not available, you may contact Supervisory Attorney PATRICIA A. GARBER whose telephone number is (215)597-7625.

Right to Representation: You have the right to be represented by an attorney or other representative in any proceeding before us. If you choose to be represented, your representative must notify us in writing of this fact as soon as possible by completing *Form NLRB-4701, Notice of Appearance*. This form is available on our website, www.nlr.gov, or from an NLRB office upon your request.

If you are contacted by someone about representing you in this case, please be assured that no organization or person seeking your business has any "inside knowledge" or favored relationship with the National Labor Relations Board. Their knowledge regarding this proceeding was only obtained through access to information that must be made available to any member of the public under the Freedom of Information Act.

Presentation of Your Evidence: As the party who filed the charge in this case, it is your responsibility to meet with the Board agent to provide a sworn affidavit, or provide other witnesses to provide sworn affidavits, and to provide relevant documents within your possession. Because we seek to resolve labor disputes promptly, you should be ready to promptly present your affidavit(s) and other evidence. If you have not yet scheduled a date and time for the Board agent to take your affidavit, please contact the Board agent to schedule the affidavit(s). If you fail to cooperate in promptly presenting your evidence, your charge may be dismissed without investigation.

Preservation of all Potential Evidence: Please be mindful of your obligation to preserve all relevant documents and electronically stored information (ESI) in this case, and to take all steps necessary to avoid the inadvertent loss of information in your possession, custody or control. Relevant information includes, but is not limited to, paper documents and all ESI (e.g. SMS text messages, electronic documents, emails, and any data created by proprietary software tools) related to the above-captioned case.

Prohibition on Recording Affidavit Interviews: It is the policy of the General Counsel to prohibit affiants from recording the interview conducted by Board agents when subscribing Agency affidavits. Such recordings may impede the Agency's ability to safeguard the confidentiality of the affidavit itself, protect the privacy of the affiant and potentially compromise the integrity of the Region's investigation.

Correspondence: All documents submitted to the Region regarding your case MUST be filed through the Agency's website, www.nlrb.gov. This includes all formal pleadings, briefs, as well as affidavits, documentary evidence, and position statements. The Agency requests all evidence submitted electronically to be in the form it is normally used and maintained in the course of business (i.e., native format). Where evidence submitted electronically is not in native format, it should be submitted in a manner that retains the essential functionality of the native format (i.e., in a machine-readable and searchable electronic format).

If you have questions about the submission of evidence or expect to deliver a large quantity of electronic records, please promptly contact the Board agent investigating the charge. If you cannot e-file your documents, you must provide a statement explaining why you do not have access to the means for filing electronically or why filing electronically would impose an undue burden.

In addition, this Region will be issuing case-related correspondence and documents, including complaints, compliance specifications, dismissal letters, deferral letters, and withdrawal letters, electronically to the email address you provide. To ensure that you receive important case-related correspondence, please ensure that the Board Agent assigned to your case has your preferred email address. These steps will ensure that you receive correspondence faster and at a significantly lower cost to the taxpayer. If there is some reason you are unable to receive correspondence via email, please contact the agent assigned to your case to discuss the circumstances that prevent you from using email.

Controlled Unclassified Information (CUI): This National Labor Relations Board (NLRB) proceeding may contain Controlled Unclassified Information (CUI). Subsequent information in this proceeding may also constitute CUI. National Archives and Records Administration (NARA) regulations at 32 CFR Part 2002 apply to all executive branch agencies that designate or handle information that meets the standards for CUI.

* * *

March 9, 2023

Information about the Agency, the procedures we follow in unfair labor practice cases and our customer service standards is available on our website, www.nlr.gov or from an NLRB office upon your request. *NLRB Form 4541, Investigative Procedures* offers information that is helpful to parties involved in an investigation of an unfair labor practice charge.

We can provide assistance for persons with limited English proficiency or disability. Please let us know if you or any of your witnesses would like such assistance.

Very truly yours,

A handwritten signature in black ink that reads "Kimberly E. Andrews". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

KIMBERLY E. ANDREWS
Regional Director

Enclosure

1. Important Information About NLRB Investigations for Immigrant Workers (English & Spanish)

cc: Byron Andrus, Staff Attorney
National Right to Work Legal Defense
Foundation
8001 Braddock Road, Suite 600
Springfield, VA 22160



Important Information About NLRB Investigations for Immigrant Workers



The National Labor Relations Act (NLRA) protects most private-sector employees, regardless of their immigration status. The NLRA gives employees the right to:

- Form, join, or assist a union to negotiate concerning wages and other working conditions.
- Discuss wages and other working conditions with coworkers, a union, a worker center, a government agency, the media, or the public.
- Take collective action with coworkers to try to improve wages and other working conditions.
- Choose not to take part in any of these actions.

Below is important information for you to know about our confidential investigation process:

- Because immigration status is not relevant as to whether there has been a violation of the NLRA:
 - We will **NOT** ask you about your immigration status.
 - You **DO NOT** need to share any information with us about your immigration status.
 - You **DO NOT** need to share information about the status of your current/former coworkers.
- We only enforce the NLRA and have **NO** involvement with the enforcement of immigration laws.
- We will **NOT** share any information about you with the Department of Homeland Security (DHS), including Immigration and Customs Enforcement (ICE), or any other immigration authorities, unless you request that we share your information to assist you with seeking immigration relief, as described in the last bulleted point of this document.
- If you have concerns about appearing at our offices for any reason, please speak with the Board Agent assigned to the case about other methods of participating in the investigation, including taking your affidavit outside of our office or by video.
- Our investigations are confidential, which means that we will **NOT** disclose your affidavit to an employer, unless you testify at a trial, or we seek a federal court injunction.
- If you are not comfortable communicating with us in English, we will make an interpreter available to provide assistance and information in your preferred language.
- If you are aware that an employer or union has engaged in any of the following conduct, please tell the Board Agent about it because it may violate the law:

- Threatening to call DHS or ICE or making other similar threats because you or other employees have engaged in union activity or other collective action to improve working conditions.
 - Asking employees to provide new or updated immigration documents/papers or reverifying employees' work authorization without a valid, non-discriminatory reason, which could violate the NLRA or other laws.
- If, at the end of the investigation, we determine there is merit to the charge (the employer or union has violated the law) and we have to litigate the case before an Administrative Law Judge, we will make every effort to prevent the employer or union from asking you about your immigration status.
- If you have filed a charge or are a witness and you or your representative tells us that there is NLRA protected activity at a worksite and immigration relief is necessary to protect employees who are exercising those rights or participating in the NLRB process, the NLRB will consider seeking immigration relief for employees at that worksite including deferred action, parole, U or T visa status, or other relief as available and appropriate. The NLRB cannot provide immigration advice. If you need immigration counsel, a list of providers of free legal services is available here:
<https://www.justice.gov/eoir/list-pro-bono-legal-service-providers>.

For more information on the NLRB, please visit our website, www.nlrb.gov.



Información Importante Acerca de las Investigaciones de la NLRB para los Trabajadores Inmigrantes



La Ley Nacional de Relaciones del Trabajo (NLRA por sus siglas en inglés) protege a la mayoría de los empleados del sector privado, independientemente de su estatus migratorio.

La NLRA les da a los empleados el derecho a:

- Formar, afiliarse o ayudar a una unión para negociar sobre los salarios y otras condiciones de trabajo.
- Discutir los salarios y otras condiciones de trabajo con los compañeros de trabajo, una unión, un centro de trabajadores, una agencia gubernamental, los medios de comunicación o el público.
- Tomar acciones colectivas con los compañeros de trabajo para tratar de mejorar los salarios y otras condiciones de trabajo.
- Optar por no participar en ninguna de estas acciones.

A continuación, le presentamos información importante que debe conocer acerca de nuestro proceso de investigación confidencial:

- Porque el estatus migratorio no es pertinente si ha habido una violación de la NLRA:
 - Nosotros **NO** le preguntaremos sobre su estatus migratorio.
 - Usted **NO NECESITA** compartir ninguna información con nosotros acerca de su estatus migratorio.
 - Usted **NO NECESITA** compartir ninguna información sobre el estatus [migratorio] de sus actuales/antiguos compañeros de trabajo.
- Sólo hacemos cumplir la NLRA y **NO** estamos involucrados en el cumplimiento de las leyes de inmigración.
- **NO** compartimos ninguna información sobre usted con el Departamento de Seguridad Nacional (DHS por sus siglas en inglés), incluyendo el Servicio de Inmigración y Control de Aduanas (ICE por sus siglas en inglés) o cualquier otra autoridad de inmigración, a menos que usted solicite que compartamos su información para ayudarlo a buscar alivio migratorio, como se describe en el último punto de este documento.
- Si tiene preocupaciones acerca de presentarse en nuestras oficinas por cualquier razón, por favor hable con el agente de la Junta asignado al caso sobre otras maneras de participar en la investigación, incluyendo tomar su declaración jurada fuera de nuestra oficina o por video.
- Nuestras investigaciones son confidenciales, lo que significa que **NO** divulgaremos su declaración jurada a un empleador, a menos que usted testifique en un juicio, o que busquemos un mandato judicial federal.
- Si no está cómodo/a comunicándose con nosotros en inglés, tendremos un intérprete disponible para proporcionarle asistencia e información en su idioma predilecto.

- Si usted sabe que un empleador o unión ha incurrido en alguna de las siguientes conductas, por favor infórmele al agente de la Junta ya que puede violar la ley:
 - Amenazar con llamar al DHS o al ICE o hacer otras amenazas similares porque usted u otros empleados han participado en actividades sindicales u otras acciones colectivas para mejorar las condiciones de trabajo.
 - Pedir a los empleados que proporcionen documentos/papeles de inmigración nuevos o actualizados o volver a verificar la autorización de trabajo de los empleados sin una razón válida y no discriminatoria, que podría violar la NLRA u otras leyes.
- Si, al final de la investigación, determinamos que el cargo tiene mérito (el empleador o la unión han violado la ley) y tenemos que litigar el caso frente a un Juez de Ley Administrativa, haremos todo lo posible para evitar que el empleador o la unión le pregunten sobre su estatus migratorio.
- Si usted ha presentado un cargo o es un testigo y usted o su representante nos dice que se hay una actividad protegida por la NLRA en un lugar de trabajo y que es necesario un alivio migratorio para proteger a los empleados que están ejerciendo esos derechos o participando en el proceso de la Junta Nacional de Relaciones del Trabajo (NLRB por sus siglas en ingles), la NLRB considerará la posibilidad de buscar un alivio migratorio para los empleados en ese lugar de trabajo, incluyendo la acción diferida, la libertad condicional, visas U o T u otro alivio en la medida en que esté disponible y sea apropiado. La NLRB no puede proporcionar asesoramiento de inmigración. Si necesita asesoramiento de inmigración, una lista de proveedores de servicios legales sin costo se encuentra disponible aquí (en inglés): <https://www.justice.gov/eoir/list-pro-bono-legal-service-providers>.

Para más información acerca de la NLRB, por favor visite nuestra página web, www.nlrb.gov.



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March 9, 2023

Steven R. Paisner, Esquire
GFP Mobile Mix Supply, LLC
14 Hadco Road
Wilmington, DE 19804

Re: IUOE Local 542
(GFP Mobile Mix Supply, LLC)
Case 04-CB-313718

Dear Mr. Paisner:

Enclosed is a copy of a charge that has been filed in this case. Although this charge is not filed against you, it is necessary for us to obtain information from you to determine whether we have jurisdiction over this case. In the future we may also need to obtain evidence from you concerning the merits of the charge. This letter tells you how to contact the Board agent who will be investigating the charge, explains your right to be represented, discusses presenting your evidence, and provides a brief explanation of our procedures, including how to submit documents to the NLRB.

Investigator: This charge is being investigated by Field Examiner MARY R. LEACH whose telephone number is (215)597-9676. If this Board agent is not available, you may contact Supervisory Attorney PATRICIA A. GARBEN whose telephone number is (215)597-7625.

Right to Representation: You have the right to be represented by an attorney or other representative in any proceeding before us. If you choose to be represented, your representative must notify us in writing of this fact as soon as possible by completing *Form NLRB-4701, Notice of Appearance*. This form is available on our website, www.nlr.gov, or from an NLRB office upon your request.

If you are contacted by someone about representing you in this case, please be assured that no organization or person seeking your business has any "inside knowledge" or favored relationship with the National Labor Relations Board. Their knowledge regarding this proceeding was only obtained through access to information that must be made available to any member of the public under the Freedom of Information Act.

Presentation of Your Evidence: We seek prompt resolutions of labor disputes. Therefore, I urge you or your representative to submit the enclosed Commerce Questionnaire to enable us to determine whether the NLRB has jurisdiction over this dispute. If you recently submitted this information in another case, or if you need assistance completing the form, please contact the Board agent.

March 9, 2023

If, during the investigation of this matter, the Board agent asks for evidence, I strongly urge you or your representative to promptly present all evidence relevant to the investigation. In this way, the case may be fully investigated more quickly.

We will not honor requests to limit our use of position statements or evidence. Specifically, any material you submit may be introduced as evidence at a hearing before an administrative law judge regardless of claims of confidentiality. However, certain evidence produced at a hearing may be protected from public disclosure by demonstrated claims of confidentiality.

Further, the Freedom of Information Act may require that we disclose position statements or evidence in closed cases upon request, unless an exemption applies, such as those protecting confidential financial information or personal privacy interests.

Preservation of all Potential Evidence: Please be mindful of your obligation to preserve all relevant documents and electronically stored information (ESI) in this case, and to take all steps necessary to avoid the inadvertent loss of information in your possession, custody or control. Relevant information includes, but is not limited to, paper documents and all ESI (e.g. SMS text messages, electronic documents, emails, and any data created by proprietary software tools) related to the above-captioned case.

Prohibition on Recording Affidavit Interviews: It is the policy of the General Counsel to prohibit affiants from recording the interview conducted by Board agents when subscribing Agency affidavits. Such recordings may impede the Agency's ability to safeguard the confidentiality of the affidavit itself, protect the privacy of the affiant and potentially compromise the integrity of the Region's investigation.

Correspondence: All documents submitted to the Region regarding your case MUST be filed through the Agency's website, www.nlrb.gov. This includes all formal pleadings, briefs, as well as affidavits, documentary evidence, and position statements. The Agency requests all evidence submitted electronically to be in the form it is normally used and maintained in the course of business (i.e., native format). Where evidence submitted electronically is not in native format, it should be submitted in a manner that retains the essential functionality of the native format (i.e., in a machine-readable and searchable electronic format).

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In addition, this Region will be issuing case-related correspondence and documents, including complaints, compliance specifications, dismissal letters, deferral letters, and withdrawal letters, electronically to the email address you provide. To ensure that you receive important case-related correspondence, please ensure that the Board Agent assigned to your case

March 9, 2023

has your preferred email address. These steps will ensure that you receive correspondence faster and at a significantly lower cost to the taxpayer. If there is some reason you are unable to receive correspondence via email, please contact the agent assigned to your case to discuss the circumstances that prevent you from using email.

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* * *

Information about the Agency, the procedures we follow in unfair labor practice cases and our customer service standards is available on our website, www.nlr.gov or from an NLRB office upon your request. *NLRB Form 4541, Investigative Procedures* offers information that is helpful to parties involved in an investigation of an unfair labor practice charge.

We can provide assistance for persons with limited English proficiency or disability. Please let us know if you or any of your witnesses would like such assistance.

Very truly yours,



KIMBERLY E. ANDREWS
Regional Director

Enclosures

1. Copy of Charge
2. Commerce Questionnaire

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD
RD PETITION

DO NOT WRITE IN THIS SPACE

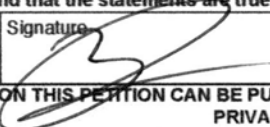
Case No.

04-RD-311366

Date Filed

02/02/23

INSTRUCTIONS: Unless e-Filed using the Agency's website, www.nlr.gov, submit an original of this Petition to an NLRB office in the Region in which the employer concerned is located. The petition must be accompanied by both a showing of interest (see 7 below) and a certificate of service showing service on the employer and all other parties named in the petition of: (1) the petition; (2) Statement of Position form (Form NLRB-505); and (3) Description of Representation Case Procedures (Form NLRB 4812). The showing of interest should only be filed with the NLRB and should not be served on the employer or any other party.

1. PURPOSE OF THIS PETITION: RD- DECERTIFICATION (REMOVAL OF REPRESENTATIVE) - A substantial number of employees assert that the certified or currently recognized bargaining representative is no longer their representative. The Petitioner alleges that the following circumstances exist and requests that the National Labor Relations Board proceed under its proper authority pursuant to Section 9 of the National Labor Relations Act.			
2a. Name of Employer GFP Mobile Mix Supply LLC		2b. Address(es) of Establishment(s) involved (Street and number, city, state, ZIP code) 14 Hadco Rd, Wilmington, DE 19804	
3a. Employer Representative - Name and Title Dominic Papa President		3b. Address (If same as 2b - state same) Same	
3c. Tel. No. (302) 998-7687	3d. Fax No.	3e. Cell No.	3f. E-Mail Address dominic.papa@gfpcement.com
4a. Type of Establishment (Factory, mine, wholesaler, etc.) Ready-Mix Concrete Manufacturing			4b. Principal product or service Concrete
5a. Description of Unit Involved Included: Ready-Mix Concrete Operators / Drivers Excluded: All others			5b. City and State where unit is located: Wilmington, DE
6. No. of Employees in Unit 8	7. Do a substantial number (30% or more) of the employees in the unit no longer wish to be represented by the certified or currently recognized bargaining representative? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		
8a. Name of Recognized or Certified Bargaining Agent IUOE LOCAL 542			8b. Affiliation, if any
8c. Address 1375 Virginia Drive Suite 100, Fort Washington, PA 19034		8d. Tel. No. (215) 542-7500	8e. Cell No. (215) 260-4627
		8f. Fax No. (215) 542-7557	8g. E-Mail Address
9. Date of Recognition or Certification 02/01/2022		10. Expiration Date of Current or Most Recent Contract, if any (Month, Day, Year)	
11a. Is there now a strike or picketing at the Employer's establishment(s) involved? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		11b. If so, approximately how many employees are participating?	
11c. The Employer has been picketed by or on behalf of (Insert Name) (Insert Address)		a labor organization, of since (Month, Day, Year)	
12. Organizations or individuals other those named in items 8 and 11c, which have claimed recognition as representatives and other organizations and individuals known to have a representative interest in any employees in the unit described in item 5 above. (If none, so state)			
12a. Name	12b. Address	12c. Tel. No.	12d. Fax No.
		12e. Cell No.	12f. E-Mail Address
13. Election Details: If the NLRB conducts an election in this matter, state your position with respect to any such election.		13a. Election Type: <input checked="" type="checkbox"/> Manual <input type="checkbox"/> Mail <input type="checkbox"/> Mixed Manual/Mail	
13b. Election Date(s) 02/14/2023	13c. Election Time(s) 8:00 AM	13d. Election Location(s) 14 Hadco Rd, Wilmington, DE 19804	
14. Full Name of Petitioner Vance Michael Pennington			
14a. Address (Street and number, city, state, ZIP code) 162 Garner Drive, Avondale, PA 19311		14b. Tel. No.	14c. Fax No.
		14d. Cell No. (484) 889-7799	14e. E-Mail Address vpennington88@gmail.com
14f. Affiliation, if any			
15. Representative of the Petitioner who will accept service of all papers for purposes of the representation proceeding.			
15a. Name Vance Pennington		15b. Title Ready-Mix Concrete Operator	
15c. Address (Street and number, city, state, ZIP code) 162 Garner Drive, Avondale, PA 19311		15d. Tel. No.	15e. Fax No.
		15f. Cell No.	15g. E-Mail Address
I declare that I have read the above petition and that the statements are true to the best of my knowledge and belief.			
Name (Print) Vance Pennington	Signature 	Title Ready-Mix Concrete Operator	Date Filed 02/01/2023

WILLFUL FALSE STATEMENTS ON THIS PETITION CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)

PRIVACY ACT STATEMENT

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 et seq. The principal use of the information is to assist the National Labor Relations Board



UNITED STATES GOVERNMENT
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February 2, 2023

URGENT

vpennington88@gmail.com

Vance Pennington
Ready-Mix Concrete Operator
162 Garner Drive
Avondale, PA 19311

Re: GFP Mobile Mix Supply LLC
Case 04-RD-311366

Dear Mr. Pennington:

The enclosed petition that you filed with the National Labor Relations Board (NLRB) has been assigned the above case number. This letter tells you how to contact the Board agent who will be handling this matter; explains your obligation to provide the originals of the showing of interest and the requirement that you complete and serve a Responsive Statement of Position form in response to each timely filed and served Statement(s) of Position; notifies you of a hearing; describes the employer's obligation to post and distribute a Notice of Petition for Election, complete a Statement of Position and provide a voter list; requests that you provide certain information; notifies you of your right to be represented; and discusses some of our procedures including how to submit documents to the NLRB.

Investigator: This petition will be investigated by Field Examiner MARY R. LEACH whose telephone number is (215)597-9676. The Board agent will contact you shortly to discuss processing the petition. If you have any questions, please do not hesitate to call the Board agent. The Board agent may also contact you and the other party or parties to schedule a conference meeting or telephonic or video conference for some time before the close of business the day following receipt of the final Responsive Statement(s) of Position. This will give the parties sufficient time to determine if any issues can be resolved prior to hearing or if a hearing is necessary. If the agent is not available, you may contact Supervisory Attorney PATRICIA A. GARBBER whose telephone number is (215)597-7625. If appropriate, the NLRB attempts to schedule an election either by agreement of the parties or by holding a hearing and then directing an election.

Showing of Interest: If the Showing of Interest you provided in support of your petition was submitted electronically or by fax, the original documents which constitute the Showing of Interest containing handwritten signatures must be delivered to the Regional office within **2**

business days. If the originals are not received within that time the Region will dismiss your petition.

Notice of Hearing: Enclosed is a Notice of Representation Hearing to be conducted at **10:00 AM on Thursday, February 23, 2023 by audioconference or videoconference, as appropriate**, if the parties do not voluntarily agree to an election. If a hearing is necessary, the hearing will run on consecutive days until concluded unless the regional director concludes that extraordinary circumstances warrant otherwise. Before the hearing begins, we will continue to explore potential areas of agreement with the parties in order to reach an election agreement and to eliminate or limit the costs associated with formal hearings.

Upon request of a party showing good cause, the regional director may postpone the hearing. A party desiring a postponement should make the request to the regional director in writing, set forth in detail the grounds for the request, and include the positions of the other parties regarding the postponement. E-Filing the request is required. A copy of the request must be served simultaneously on all the other parties, and that fact must be noted in the request.

Posting and Distribution of Notice: The Employer must post the enclosed Notice of Petition for Election by **Thursday, February 9, 2023** in conspicuous places, including all places where notices to employees are customarily posted. If it customarily communicates electronically with its employees in the petitioned-for unit, it must also distribute the notice electronically to them. The Employer must maintain the posting until the petition is dismissed or withdrawn or this notice is replaced by the Notice of Election. Failure to post or distribute the notice may be grounds for setting aside the election if proper and timely objections are filed.

Statement of Position: In accordance with Section 102.63(b) of the Board's Rules, the Employer and the Union are required to complete the enclosed Statement of Position form, have it signed by an authorized representative, and file a completed copy with any necessary attachments, with this office and serve it on all parties named in the petition by **noon Eastern Time on Tuesday, February 14, 2023**. The Statement of Position must include a list of the full names, work locations, shifts, and job classifications of all individuals in the proposed unit as of the payroll period preceding the filing of the petition who remain employed at the time of filing. If the Employer contends that the proposed unit is inappropriate, it must separately list the full names, work locations, shifts and job classifications of all individuals that it contends must be added to the proposed unit to make it an appropriate unit. The Employer must also indicate those individuals, if any, whom it believes must be excluded from the proposed unit to make it an appropriate unit.

Required Responsive Statement of Position (RSOP): In accordance with Section 102.63(b) of the Board's Rules, following timely filing and service of a Statement of Position, the petitioner is required to complete the enclosed Responsive Statement of Position form addressing issues raised in any Statement(s) of Position. The petitioner must file a complete, signed RSOP in response to all other parties' timely filed and served Statement of Position, with all required attachments, with this office and serve it on all parties named in the petition such that it is received by them by **noon Eastern Time on Friday, February 17, 2023**. This form solicits information that will facilitate entry into election agreements or streamline the pre-election

hearing if the parties are unable to enter into an election agreement. **This form must be e-Filed, but unlike other e-Filed documents, will not be timely if filed on the due date but after noon Eastern Time.** If you have questions about this form or would like assistance in filling out this form, please contact the Board agent named above.

Failure to Supply Information: Failure to supply the information requested by the RSOP form may preclude you from litigating issues under Section 102.66(d) of the Board's Rules and Regulations. Section 102.66(d) provides as follows:

A party shall be precluded from raising any issue, presenting any evidence relating to any issue, cross-examining any witness concerning any issue, and presenting argument concerning any issue that the party failed to raise in its timely Statement of Position or to place in dispute in response to another party's Statement of Position or response, except that no party shall be precluded from contesting or presenting evidence relevant to the Board's statutory jurisdiction to process the petition. Nor shall any party be precluded, on the grounds that a voter's eligibility or inclusion was not contested at the pre-election hearing, from challenging the eligibility of any voter during the election. If a party contends that the proposed unit is not appropriate in its Statement of Position but fails to specify the classifications, locations, or other employee groupings that must be added to or excluded from the proposed unit to make it an appropriate unit, the party shall also be precluded from raising any issue as to the appropriateness of the unit, presenting any evidence relating to the appropriateness of the unit, cross-examining any witness concerning the appropriateness of the unit, and presenting argument concerning the appropriateness of the unit. If the employer fails to timely furnish the lists of employees described in §§ 102.63(b)(1)(iii), (b)(2)(iii), or (b)(3)(iii), the employer shall be precluded from contesting the appropriateness of the proposed unit at any time and from contesting the eligibility or inclusion of any individuals at the pre-election hearing, including by presenting evidence or argument, or by cross-examination of witnesses.

Voter List: If an election is held in this matter, the Employer must transmit to this office and to the other parties to the election, an alphabetized list of the full names and addresses of all eligible voters, including their shifts, job classifications, work locations, and other contact information including available personal email addresses and available personal home and cellular telephone numbers. Usually, the list must be furnished within 2 business days of the issuance of the Decision and Direction of Election or approval of an election agreement. The list must be electronically filed with the Region and served electronically on the other parties. To guard against potential abuse, this list may not be used for purposes other than the representation proceeding, NLRB proceedings arising from it or other related matters.

Under existing NLRB practice, an election is not ordinarily scheduled for a date earlier than 10 days after the date when the Employer must file the voter list with the Regional Office. However, a petitioner and/or union entitled to receive the voter list may waive all or part of the 10-day period by executing Form NLRB-4483, which is available on the NLRB's website or

from an NLRB office. A waiver will not be effective unless all parties who are entitled to the voter list agree to waive the same number of days.

Information Needed Now: Please submit to this office, as soon as possible, the following information needed to handle this matter:

- (a) The correct name of the Union as stated in its constitution or bylaws.
- (b) A copy of any existing or recently expired collective-bargaining agreements, and any amendments or extensions, or any recognition agreements covering any employees in the petitioned-for unit.
- (c) If potential voters will need notices or ballots translated into a language other than English, the names of those languages and dialects, if any.
- (d) The name and contact information for any other labor organization (union) claiming to represent or have an interest in any of the employees in the petitioned-for unit and for any employer who may be a joint employer of the employees in the proposed unit. Failure to disclose the existence of an interested party may delay the processing of the petition.

Right to Representation: You have the right to be represented by an attorney or other representative in any proceeding before the NLRB. In view of our policy of processing these cases expeditiously, if you wish to be represented, you should obtain representation promptly. Your representative must notify us in writing of this fact as soon as possible by completing Form NLRB-4701, Notice of Appearance. This form is available on our website, www.nlr.gov, or from an NLRB office upon your request.

If someone contacts you about representing you in this case, please be assured that no organization or person seeking your business has any “inside knowledge” or favored relationship with the NLRB. Their knowledge regarding this matter was obtained only through access to information that must be made available to any member of the public under the Freedom of Information Act.

Procedures: Pursuant to Section 102.5 of the Board’s Rules and Regulations, parties must submit all documentary evidence, including statements of position, exhibits, sworn statements, and/or other evidence, by electronically submitting (E-Filing) them through the Agency’s web site (www.nlr.gov). You must e-file all documents electronically or provide a written statement explaining why electronic submission is not possible or feasible. Failure to comply with Section 102.5 will result in rejection of your submission. The Region will make its determinations solely based on the documents and evidence properly submitted. All evidence submitted electronically should be in the form in which it is normally used and maintained in the course of business (i.e., native format). Where evidence submitted electronically is not in native format, it should be submitted in a manner that retains the essential functionality of the native format (i.e., in a machine-readable and searchable electronic format). If you have questions about the submission of evidence or expect to deliver a large quantity of electronic records, please promptly contact the Board agent investigating the petition.

Controlled Unclassified Information (CUI): This National Labor Relations Board (NLRB) proceeding may contain Controlled Unclassified Information (CUI). Subsequent information in this proceeding may also constitute CUI. National Archives and Records Administration (NARA) regulations at 32 CFR Part 2002 apply to all executive branch agencies that designate or handle information that meets the standards for CUI.

* * *

Information about the NLRB and our customer service standards is available on our website, www.nlrb.gov, or from an NLRB office upon your request. We can provide assistance for persons with limited English proficiency or disability. Please let us know if you or any of your witnesses would like such assistance.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Emily DeSa', with a horizontal line extending to the right.

Emily DeSa
Acting Regional Director

Enclosures

1. Petition
2. Notice of Petition for Election (Form 5492)
3. Notice of Representation Hearing
4. Description of Procedures in Certification and Decertification Cases (Form 4812)
5. Statement of Position form and Commerce Questionnaire (Form 505)
6. Responsive Statement of Position (Form 506)
7. Description of Voter List Requirement after Hearing in Certification and Decertification Cases (Form 5580)



National Labor Relations Board



NOTICE OF PETITION FOR ELECTION

This notice is to inform employees that Vance Pennington has filed a petition with the National Labor Relations Board (NLRB), a Federal agency, in Case 04-RD-311366 seeking an election to determine if the employees of GFP Mobile Mix Supply, LLC in the unit set forth below wish to be represented by IUOE Local 542 for the purposes of collective bargaining:

Included: Ready-Mix Concrete Operators/Drivers

Excluded: All others

This notice also provides you with information about your basic rights under the National Labor Relations Act, the processing of the petition, and rules to keep NLRB elections fair and honest.

YOU HAVE THE RIGHT under Federal Law

- To self-organization
- To form, join, or assist labor organizations
- To bargain collectively through representatives of your own choosing
- To act together for the purposes of collective bargaining or other mutual aid or protection
- To refuse to do any or all of these things unless the union and employer, in a state where such agreements are permitted, enter into a lawful union-security agreement requiring employees to pay periodic dues and initiation fees. Nonmembers who inform the union that they object to the use of their payments for nonrepresentational purposes may be required to pay only their share of the union's costs of representational activities (such as collective bargaining, contract administration, and grievance adjustments).

PROCESSING THIS PETITION

Elections do not necessarily occur in all cases after a petition is filed. **NO FINAL DECISIONS HAVE BEEN MADE YET** regarding the appropriateness of the proposed unit or whether an election will be held in this matter. If appropriate, the NLRB will first see if the parties will enter into an election agreement that specifies the method, date, time, and location of an election and the unit of employees eligible to vote. If the parties do not enter into an election agreement, usually a hearing is held to receive evidence on the appropriateness of the unit and other issues in dispute. After a hearing, an election may be directed by the NLRB, if appropriate.

IF AN ELECTION IS HELD, it will be conducted by the NLRB by secret ballot and Notices of Election will be posted before the election giving complete details for voting.

ELECTION RULES

The NLRB applies rules that are intended to keep its elections fair and honest and that result in a free choice. If agents of any party act in such a way as to interfere with your right to a free election, the election can be set aside by the NLRB. Where appropriate the NLRB provides other remedies, such as reinstatement for employees fired for exercising their rights, including backpay from the party responsible for their discharge.

The following are examples of conduct that interfere with employees' rights and may result in setting aside the election:

- Threatening loss of jobs or benefits by an employer or a union
- Promising or granting promotions, pay raises, or other benefits, to influence an employee's vote by a party capable of carrying out such promises
- An employer firing employees to discourage or encourage union activity or a union causing them to be fired to encourage union activity
- Making campaign speeches to assembled groups of employees on company time, where attendance is mandatory, within the 24-hour period before the polls for the election first open or, if the election is conducted by mail, from the time and date the ballots are scheduled to be sent out by the Region until the time and date set for their return
- Incitement by either an employer or a union of racial or religious prejudice by inflammatory appeals
- Threatening physical force or violence to employees by a union or an employer to influence their votes

Please be assured that IF AN ELECTION IS HELD, every effort will be made to protect your right to a free choice under the law. Improper conduct will not be permitted. All parties are expected to cooperate fully with the NLRB in maintaining basic principles of a fair election as required by law. The NLRB as an agency of the United States Government does not endorse any choice in the election.

For additional information about the processing of petitions, go to www.nlr.gov or contact the NLRB at (215)597-7601.

THIS IS AN OFFICIAL GOVERNMENT NOTICE AND MUST NOT BE DEFACED BY ANYONE. IT MUST REMAIN POSTED WITH ALL PAGES SIMULTANEOUSLY VISIBLE UNTIL REPLACED BY THE NOTICE OF ELECTION OR THE PETITION IS DISMISSED OR WITHDRAWN.



National Labor Relations Board





**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 4**



GFP Mobile Mix Supply, LLC Employer and Vance Pennington Petitioner and IUOE Local 542 Union	Case 04-RD-311366
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NOTICE OF REPRESENTATION HEARING

The Petitioner filed the attached petition pursuant to Section 9(c) of the National Labor Relations Act. It appears that a question affecting commerce exists as to whether the employees in the unit described in the petition wish to be represented by a collective-bargaining representative as defined in Section 9(a) of the Act.

YOU ARE HEREBY NOTIFIED that, pursuant to Sections 3(b) and 9(c) of the Act, at 10:00 AM on **Thursday, February 23, 2023** and on consecutive days thereafter until concluded, **by audioconference or videoconference, as appropriate**, a hearing will be conducted before a hearing officer of the National Labor Relations Board. At the hearing, the parties will have the right to appear in person or otherwise, and give testimony.


YOU ARE FURTHER NOTIFIED that, pursuant to Section 102.63(b) of the Board's Rules and Regulations, GFP Mobile Mix Supply, LLC and IUOE Local 542 must complete the Statement of Position and file it and all attachments with the Regional Director and serve it on the parties listed on the petition such that it is received by them by no later than **noon** Eastern time on **Tuesday, February 14, 2023**. Following timely filing and service of a Statement of Position by GFP Mobile Mix Supply, LLC and IUOE Local 542, the Petitioner must complete its Responsive Statement of Position(s) responding to the issues raised in the Employer's and/or Union's Statement of Position and file them and all attachments with the Regional Director and serve them on the parties named in the petition such that they are received by them no later than **noon** Eastern on **Friday February 17, 2023**.

Pursuant to Section 102.5 of the Board's Rules and Regulations, all documents filed in cases before the Agency must be filed by electronically submitting (E-Filing) through the Agency's website (www.nlrb.gov), unless the party filing the document does not have access to the means for filing electronically or filing electronically would impose an undue burden. Documents filed by means other than E-Filing must be accompanied by a statement explaining

why the filing party does not have access to the means for filing electronically or filing electronically would impose an undue burden. Detailed instructions for using the NLRB's E-Filing system can be found in the [E-Filing System User Guide](#).

The Statement of Position and Responsive Statement of Position must be E-Filed but, unlike other E-Filed documents, must be filed by **noon** Eastern on the due date in order to be timely. If an election agreement is signed by all parties and returned to the Regional Office before the due date of the Statement of Position, the Statement of Position and Responsive Statement of Position are not required to be filed. If an election agreement is signed by all parties and returned to the Regional office after the due date of the Statement of Position but before the due date of the Responsive Statement of Position, the Responsive Statement of Position is not required to be filed.

Dated: February 2, 2023

A handwritten signature in black ink, appearing to read 'Emily DeSa', with a horizontal line extending from the end of the signature.

Emily DeSa
Acting Regional Director
National Labor Relations Board
Region 04
100 E Penn Square
Suite 403
Philadelphia, PA 19107

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD**

GFP Mobile Mix Supply, LLC Employer and Vance Pennington Petitioner and IUOE Local 542 Union	Case 04-RD-311366
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AFFIDAVIT OF SERVICE OF: Petition dated February 1, 2023, Notice of Representation Hearing dated February 2, 2023, Description of Procedures in Certification and Decertification Cases (Form NLRB-4812), Notice of Petition for Election, and Statement of Position Form (Form NLRB-505).

I, the undersigned employee of the National Labor Relations Board, being duly sworn, say that on February 2, 2023, I served the above documents by electronic mail and regular mail upon the following persons, addressed to them at the following addresses:

Dominic Papa
GFP Mobile Mix Supply, LLC
14 Hadco Road
Wilmington, DE 19804
dominic.papa@gfpcement.com

Vance Pennington, Ready-Mix Concrete
Operator
162 Garner Drive
Avondale, PA 19311
vpennington88@gmail.com

IUOE Local 542
1375 Virginia Drive
Suite 100
Fort Washington, PA 19034
IUOELocal542@yahoo.com

February 2, 2023

Date

Shanda A Washington,
Designated Agent of NLRB

Name

/s/ Shanda A Washington

Signature

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD

**DESCRIPTION OF REPRESENTATION CASE PROCEDURES
IN CERTIFICATION AND DECERTIFICATION CASES**

The National Labor Relations Act grants employees the right to bargain collectively through representatives of their own choosing and to refrain from such activity. A party may file an RC, RD or RM petition with the National Labor Relations Board (NLRB) to conduct a secret ballot election to determine whether a representative will represent, or continue to represent, a unit of employees. An **RC** petition is generally filed by a union that desires to be certified as the bargaining representative. An **RD** petition is filed by employees who seek to remove the currently recognized union as the bargaining representative. An **RM** petition is filed by an employer who seeks an election because one or more individuals or unions have sought recognition as the bargaining representative, or based on a reasonable belief supported by objective considerations that the currently recognized union has lost its majority status. This form generally describes representation case procedures in RC, RD and RM cases, also referred to as certification and decertification cases.

Right to be Represented – Any party to a case with the NLRB has the right to be represented by an attorney or other representative in any proceeding before the NLRB. A party wishing to have a representative appear on its behalf should have the representative complete a Notice of Appearance (Form NLRB-4701), and E-File it at www.nlr.gov or forward it to the NLRB Regional Office handling the petition as soon as possible.

Filing and Service of Petition – A party filing an RC, RD or RM petition is required to serve a copy of its petition on the parties named in the petition along with this form and the Statement of Position form. The petitioner files the petition with the NLRB, together with (1) a certificate showing service of these documents on the other parties named in the petition, and (2) a showing of interest to support the petition. The showing of interest is not served on the other parties.

Notice of Hearing – After a petition in a certification or decertification case is filed with the NLRB, the NLRB reviews the petition, certificate of service, and the required showing of interest for sufficiency, assigns the petition a case number, and promptly sends letters to the parties notifying them of the Board agent who will be handling the case. In most cases, the letters include a Notice of Representation Hearing. Except in cases presenting unusually complex issues, this pre-election hearing is set for a date 14 business days (excluding weekends and federal holidays) from the date of service of the notice of hearing. Once the hearing begins, it will continue day to day until completed absent extraordinary circumstances. The Notice of Representation Hearing also sets the due date for filing and serving the Statement(s) of Position and the Responsive Statement of Position(s). Included with the Notice of Representation Hearing are the following: (1) copy of the petition, (2) this form, (3) Statement of Position for non-petitioning parties, (4) petitioner's Responsive Statement of Position, (5) Notice of Petition for Election, and (6) letter advising how to contact the Board agent who will be handling the case and discussing those documents.

Hearing Postponement: Requests to postpone the hearing are not routinely granted, but the regional director may postpone the hearing for good cause. A party wishing to request a postponement should make the request in writing and set forth in detail the grounds for the request. The request should include the positions of the other parties regarding the postponement. The request must be filed electronically ("E-Filed") on the Agency's website (www.nlr.gov) by following the instructions on the website. A copy of the request must be served simultaneously on all the other parties, and that fact must be noted in the request.

Statement of Position Form and List(s) of Employees – The Statement of Position form solicits commerce and other information that will facilitate entry into election agreements or streamline the pre-election hearing if the parties are unable to enter into an election agreement. In an **RC** or **RD** case, as part of its Statement of Position form, the employer also provides a list of the full names, work locations, shifts, and job classifications of all individuals in the proposed unit. If the employer contends that the proposed unit is not appropriate, the employer must separately list the same information for all individuals that the employer contends must be added to the proposed unit to make it an appropriate unit, and must further indicate those individuals, if any, whom it believes must be excluded from the proposed unit to make it an appropriate unit. These lists must be alphabetized (overall or by department). Unless the employer certifies that it does not possess the capacity to produce the lists in the required form, the lists must be in a table in a Microsoft Word file (.doc or .docx) or a file that is compatible with Microsoft Word, the first column of the table must begin with each employee's last name, and the font size of the list must be the equivalent of Times New Roman 10 or larger. That font does not need to be used but the font must be that size or larger. A sample, optional

form for the list is provided on the NLRB website at www.nlr.gov/sites/default/files/attachments/basic-page/node-4559/Optional Forms for Voter List.docx

Ordinarily the Statement of Position must be filed with the Regional Office and served on the other parties such that it is received by them by noon 8 business days from the issuance of the Notice of Hearing. The regional director may postpone the due date for filing and serving the Statement of Position for good cause. The Statement of Position form must be E-Filed but, unlike other E-Filed documents, will not be timely if filed on the due date but after noon in the time zone of the Region where the petition is filed. Consequences for failing to satisfy the Statement of Position requirement are discussed on the following page under the heading "Preclusion." A request to postpone the hearing will not automatically be treated as a request for an extension of the Statement of Position due date. If a party wishes to request both a postponement of the hearing and a postponement of the Statement of Position due date, the request must make that clear and must specify the reasons that postponements of both are sought.

Responsive Statement of Position – Petitioner's Responsive Statement(s) of Position solicits a response to the Statement(s) of Position filed by the other parties and further facilitates entry into election agreements or streamlines the preelection hearing. A petitioner must file a Responsive Statement of Position in response to each party's Statement of Position addressing each issue in each Statement of Position(s), if desired. In the case of an RM petition, the employer-petitioner must also provide commerce information and file and serve a list of the full names, work locations, shifts, and job classifications of all individuals in the proposed unit. Ordinarily, the Responsive Statement of Position must be electronically filed with the Regional Office and served on the other parties such that it is received by noon 3 business days prior to the hearing. The regional director may postpone the due date for filing and serving the Responsive Statement of Position for good cause. The Responsive Statement of Position form must be E-Filed but, unlike other E-Filed documents, will not be timely if filed on the due date but after noon in the time zone of the Region where the petition is filed. Consequences for failing to satisfy the Responsive Statement of Position requirement are discussed on the following page under the heading "Preclusion." A request to postpone the hearing will not automatically be treated as a request for an extension of the Responsive Statement of Position due date. If a party wishes to request both a postponement of the hearing and a Postponement of the Responsive Statement of Position due date, the request must make that clear and must specify the reasons that postponements of both are sought.

Posting and Distribution of Notice of Petition for Election – Within 5 business days after service of the notice of hearing, the employer must post the Notice of Petition for Election in conspicuous places, including all places where notices to employees are customarily posted, and must also distribute it electronically to the employees in the petitioned-for unit if the employer customarily communicates with these employees electronically. The employer must maintain the posting until the petition is dismissed or withdrawn, or the Notice of Petition for Election is replaced by the Notice of Election. The employer's failure properly to post or distribute the Notice of Petition for Election may be grounds for setting aside the election if proper and timely objections are filed.

Election Agreements – Elections can occur either by agreement of the parties or by direction of the regional director or the Board. Three types of agreements are available: (1) a Consent Election Agreement (Form NLRB-651); (2) a Stipulated Election Agreement (Form NLRB-652); and (3) a Full Consent Agreement (Form NLRB-5509). In the Consent Election Agreement and the Stipulated Election Agreement, the parties agree on an appropriate unit and the method, date, time, and place of a secret ballot election that will be conducted by an NLRB agent. In the Consent Agreement, the parties also agree that post-election matters (election objections or determinative challenged ballots) will be resolved with finality by the regional director; whereas in the Stipulated Election Agreement, the parties agree that they may request Board review of the regional director's post-election determinations. A Full Consent Agreement provides that the regional director will make final determinations regarding all pre-election and post-election issues.

Hearing Cancellation Based on Agreement of the Parties – The issuance of the Notice of Representation Hearing does not mean that the matter cannot be resolved by agreement of the parties. On the contrary, the NLRB encourages prompt voluntary adjustments and the Board agent assigned to the case will work with the parties to enter into an election agreement, so the parties can avoid the time and expense of participating in a hearing.

Hearing – A hearing will be held unless the parties enter into an election agreement approved by the regional director or the petition is dismissed or withdrawn.

Purpose of Hearing: The primary purpose of a pre-election hearing is to determine if a question of representation exists. A question of representation exists if a proper petition has been filed concerning a unit

appropriate for the purpose of collective bargaining or, in the case of a decertification petition, concerning a unit in which a labor organization has been certified or is being currently recognized by the employer as the bargaining representative.

Issues at Hearing: Issues that might be litigated at the pre-election hearing include: jurisdiction; labor organization status; bars to elections; unit appropriateness; expanding and contracting unit issues; inclusion of professional employees with nonprofessional employees; seasonal operation; potential mixed guard/non-guard unit; and eligibility formulas. At the hearing, the timely filed Statement of Position and Responsive Statement of Position(s) will be received into evidence. The hearing officer will not receive evidence concerning any issue as to which the parties have not taken adverse positions, except for evidence regarding the Board's jurisdiction over the employer and evidence concerning any issue, such as the appropriateness of the proposed unit, as to which the regional director determines that record evidence is necessary.

Preclusion: At the hearing, a party will be precluded from raising any issue, presenting any evidence relating to any issue, cross-examining any witness concerning any issue, and presenting argument concerning any issue that the party failed to raise in its timely Statement of Position or Responsive Statement of Position(s) or to place in dispute in timely response to another party's Statement of Position or response, except that no party will be precluded from contesting or presenting evidence relevant to the Board's statutory jurisdiction to process the petition. Nor shall any party be precluded, on the grounds that a voter's eligibility or inclusion was not contested at the pre-election hearing, from challenging the eligibility of any voter during the election. If a party contends that the proposed unit is not appropriate in its Statement of Position but fails to specify the classifications, locations, or other employee groupings that must be added to or excluded from the proposed unit to make it an appropriate unit, the party shall also be precluded from raising any issue as to the appropriateness of the unit, presenting any evidence relating to the appropriateness of the unit, cross examining any witness concerning the appropriateness of the unit, and presenting argument concerning the appropriateness of the unit. As set forth in §102.66(d) of the Board's rules, if the employer fails to timely furnish the lists of employees, the employer will be precluded from contesting the appropriateness of the proposed unit at any time and from contesting the eligibility or inclusion of any individuals at the pre-election hearing, including by presenting evidence or argument, or by cross-examination of witnesses.

Conduct of Hearing: If held, the hearing is usually open to the public and will be conducted by a hearing officer of the NLRB. Any party has the right to appear at any hearing in person, by counsel, or by other representative, to call, examine, and cross-examine witnesses, and to introduce into the record evidence of the significant facts that support the party's contentions and are relevant to the existence of a question of representation. The hearing officer also has the power to call, examine, and cross-examine witnesses and to introduce into the record documentary and other evidence. Witnesses will be examined orally under oath. The rules of evidence prevailing in courts of law or equity shall not be controlling. Parties appearing at any hearing who have or whose witnesses have disabilities falling within the provisions of Section 504 of the Rehabilitation Act of 1973, as amended, and 29 C.F.R. 100.503, and who in order to participate in this hearing need appropriate auxiliary aids, as defined in 29 C.F.R. 100.503, should notify the regional director as soon as possible and request the necessary assistance.

Official Record: An official reporter will make the only official transcript of the proceedings and all citations in briefs or arguments must refer to the official record. (Copies of exhibits should be supplied to the hearing officer and other parties at the time the exhibit is offered in evidence.) All statements made at the hearing will be recorded by the official reporter while the hearing is on the record. If a party wishes to make off-the-record remarks, requests to make such remarks should be directed to the hearing officer and not to the official reporter. After the close of the hearing, any request for corrections to the record, either by stipulation or motion, should be forwarded to the regional director.

Motions and Objections: All motions must be in writing unless stated orally on the record at the hearing and must briefly state the relief sought and the grounds for the motion. A copy of any motion must be served immediately on the other parties to the proceeding. Motions made during the hearing are filed with the hearing officer. All other motions are filed with the regional director, except that motions made after the transfer of the record to the Board are filed with the Board. If not E-Filed, an original and two copies of written motions shall be filed. Statements of reasons in support of motions or objections should be as concise as possible. Objections shall not be deemed waived by further participation in the hearing. On appropriate request, objections may be permitted to stand to an entire line of questioning. Automatic exceptions will be allowed to all adverse rulings.

Election Details: Prior to the close of the hearing the hearing officer will: (1) solicit the parties' positions (but will not permit litigation) on the type, date(s), time(s), and location(s) of the election and the eligibility period; (2) solicit the name, address, email address, facsimile number, and phone number of the employer's on-site representative to whom the regional director should transmit the Notice of Election if an election is directed; (3) inform the parties that the regional director will issue a decision as soon as practicable and will immediately transmit the document to the parties and their designated representatives by email, facsimile, or by overnight mail (if neither an email address nor facsimile number was provided); and (4) inform the parties of their obligations if the director directs an election and of the time for complying with those obligations.

Oral Argument and Briefs: Upon request, any party is entitled to a reasonable period at the close of the hearing for oral argument, which will be included in the official transcript of the hearing. At any time before the close of the hearing, any party may file a memorandum addressing relevant issues or points of law. Post-hearing briefs shall be due within 5 business days of the close of the hearing. The hearing officer may allow up to 10 additional business days for such briefs prior to the close of hearing and for good cause. If filed, copies of the memorandum or brief shall be served on all other parties to the proceeding and a statement of such service shall be filed with the memorandum or brief. No reply brief may be filed except upon special leave of the regional director. Briefs including electronic documents, filed with the Regional Director must be formatted as double-spaced in an 8½ by 11 inch format and must be e-filed through the Board's website, www.nlr.gov.

Regional Director Decision - After the hearing, the regional director issues a decision directing an election, dismissing the petition or reopening the hearing. A request for review of the regional director's pre-election decision may be filed with the Board at any time after issuance of the decision until 10 business days after a final disposition of the proceeding by the regional director. Accordingly, a party need not file a request for review before the election in order to preserve its right to contest that decision after the election. Instead, a party can wait to see whether the election results have mooted the basis of an appeal. The Board will grant a request for review only where compelling reasons exist therefor.

Voter List – The employer must provide to the regional director and the parties named in the election agreement or direction of election a list of the full names, work locations, shifts, job classifications, and contact information (including home addresses, available personal email addresses, and available home and personal cellular ("cell") telephone numbers) of all eligible voters. (In construction industry elections, unless the parties stipulate to the contrary, also eligible to vote are all employees in the unit who either (1) were employed a total of 30 working days or more within the 12 months preceding the election eligibility date or (2) had some employment in the 12 months preceding the election eligibility date and were employed 45 working days or more within the 24 months immediately preceding the election eligibility date. However, employees meeting either of those criteria who were terminated for cause or who quit voluntarily prior to the completion of the last job for which they were employed, are not eligible.) The employer must also include in a separate section of the voter list the same information for those individuals whom the parties have agreed should be permitted to vote subject to challenge or those individuals who, according to the direction of election, will be permitted to vote subject to challenge. The list of names must be alphabetized (overall or by department) and be in the same Microsoft Word file (or Microsoft Word compatible file) format as the initial lists provided with the Statement of Position form unless the parties agree to a different format or the employer certifies that it does not possess the capacity to produce the list in the required form. When feasible, the list must be filed electronically with the regional director and served electronically on the other parties named in the agreement or direction. To be timely filed and served, the voter list must be received by the regional director and the parties named in the agreement or direction respectively within 2 business days after the approval of the agreement or issuance of the direction of elections unless a longer time is specified in the agreement or direction. A certificate of service on all parties must be filed with the regional director when the voter list is filed. The employer's failure to file or serve the list within the specified time or in proper format shall be grounds for setting aside the election whenever proper and timely objections are filed. The parties shall not use the list for purposes other than the representation proceeding, Board proceedings arising from it, and related matters.

Waiver of Time to Use Voter List – Under existing NLRB practice, an election is not ordinarily scheduled for a date earlier than 10 calendar days after the date when the employer must file the voter list with the Regional Office. However, the parties entitled to receive the voter list may waive all or part of the 10-day period by executing Form NLRB-4483. A waiver will not be effective unless all parties who are entitled to the list agree to waive the same number of days.

Election – Information about the election, requirements to post and distribute the Notice of Election, and possible proceedings after the election is available from the Regional Office and will be provided to the parties when the Notice of Election is sent to the parties.

Withdrawal or Dismissal – If it is determined that the NLRB does not have jurisdiction or that other criteria for proceeding to an election are not met, the petitioner is offered an opportunity to withdraw the petition. If the petitioner does not withdraw the petition, the regional director will dismiss the petition and advise the petitioner of the reason for the dismissal and of the right to appeal to the Board.

REVIEW THE FOLLOWING IMPORTANT INFORMATION BEFORE FILLING OUT A STATEMENT OF POSITION FORM

Completing and Filing this Form: The Notice of Hearing indicates which parties are responsible for completing the form. If you are required to complete the form, you must have it signed by an authorized representative and file a completed copy (including all attachments) with the RD and serve copies on all parties named in the petition by the date and time established for its submission. If more space is needed for your answers, additional pages may be attached. If you have questions about this form or would like assistance in filling out this form, please contact the Board agent assigned to handle this case. **You must EFile your Statement of Position at www.nlrb.gov, but unlike other e-Filed documents, it will *not* be timely if filed on the due date but after noon in the time zone of the Region where the petition was filed.**

Note: Non-employer parties who complete this Statement of Position are NOT required to complete items 8f and 8g of the form, or to provide a commerce questionnaire or the lists described in item 7.

Required Lists: The employer's Statement of Position must include a list of the full names, work locations, shifts, and job classifications of all individuals in the proposed unit as of the payroll period preceding the filing of the petition who remain employed at the time of filing. If the employer contends that the proposed unit is inappropriate, the employer must separately list the full names, work locations, shifts and job classifications of all individuals that it contends must be added to the proposed unit to make it an appropriate unit. The employer must also indicate those individuals, if any, whom it believes must be excluded from the proposed unit to make it an appropriate unit. These lists must be alphabetized (overall or by department). Unless the employer certifies that it does not possess the capacity to produce the lists in the required form, the lists must be in a table in a Microsoft Word file (.doc or .docx) or a file that is compatible with Microsoft Word, the first column of the table must begin with each employee's last name, and the font size of the list must be the equivalent of Times New Roman 10 or larger. That font does not need to be used but the font must be that size or larger. A sample, optional form for the list is provided on the NLRB website at [www.nlrb.gov/sites/default/files/attachments/basic-page/node-4559/Optional Forms for Voter List.docx](http://www.nlrb.gov/sites/default/files/attachments/basic-page/node-4559/Optional%20Forms%20for%20Voter%20List.docx).

Consequences of Failure to Supply Information: Failure to supply the information requested by this form may preclude you from litigating issues under 102.66(d) of the Board's Rules and Regulations. Section 102.66(d) provides as follows:

A party shall be precluded from raising any issue, presenting any evidence relating to any issue, cross-examining any witness concerning any issue, and presenting argument concerning any issue that the party failed to raise in its timely Statement of Position or to place in dispute in response to another party's Statement of Position or response, except that no party shall be precluded from contesting or presenting evidence relevant to the Board's statutory jurisdiction to process the petition. Nor shall any party be precluded, on the grounds that a voter's eligibility or inclusion was not contested at the pre-election hearing, from challenging the eligibility of any voter during the election. If a party contends that the proposed unit is not appropriate in its Statement of Position but fails to specify the classifications, locations, or other employee groupings that must be added to or excluded from the proposed unit to make it an appropriate unit, the party shall also be precluded from raising any issue as to the appropriateness of the unit, presenting any evidence relating to the appropriateness of the unit, cross-examining any witness concerning the appropriateness of the unit, and presenting argument concerning the appropriateness of the unit. If the employer fails to timely furnish the lists of employees described in §§102.63(b)(1)(iii), (b)(2)(iii), or (b)(3)(iii), the employer shall be precluded from contesting the appropriateness of the proposed unit at any time and from contesting the eligibility or inclusion of any individuals at the pre-election hearing, including by presenting evidence or argument, or by cross-examination of witnesses.

UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD
STATEMENT OF POSITION

DO NOT WRITE IN THIS SPACE

Case No.

04-RD-311366

Date Filed

February 1, 2023

INSTRUCTIONS: Submit this Statement of Position to an NLRB Office in the Region in which the petition was filed and serve it and all attachments on each party named in the petition in this case such that it is received by them by the date and time specified in the notice of hearing.

Note: Non-employer parties who complete this form are NOT required to complete items 8f or 8g below or to provide a commerce questionnaire or the lists described in item 7.

1a. Full name of party filing Statement of Position		1c. Business Phone:	1e. Fax No.:
1b. Address (Street and number, city, state, and ZIP code)		1d. Cell No.:	1f. e-Mail Address
2. Do you agree that the NLRB has jurisdiction over the Employer in this case? <input type="checkbox"/> Yes <input type="checkbox"/> No (A completed commerce questionnaire (Attachment A) must be submitted by the Employer, regardless of whether jurisdiction is admitted)			
3. Do you agree that the proposed unit is appropriate? <input type="checkbox"/> Yes <input type="checkbox"/> No (If not, answer 3a and 3b)			
a. State the basis for your contention that the proposed unit is not appropriate. (If you contend a classification should be excluded or included briefly explain why, such as shares a community of interest or are supervisors or guards)			
b. State any classifications, locations, or other employee groupings that must be added to or excluded from the proposed unit to make it an appropriate unit.			
Added		Excluded	
4. Other than the individuals in classifications listed in 3b, list any individual(s) whose eligibility to vote you intend to contest at the pre-election hearing in this case and the basis for contesting their eligibility.			
5. Is there a bar to conducting an election in this case? <input type="checkbox"/> Yes <input type="checkbox"/> No If yes, state the basis for your position.			
6. Describe all other issues you intend to raise at the pre-election hearing.			
7. The employer must provide the following lists which must be alphabetized (overall or by department) in the format specified at www.nlr.gov/sites/default/files/attachments/basic-page/node-4559/Optional Forms for Voter List.docx . (a) A list containing the full names, work locations, shifts and job classification of all individuals in the proposed unit as of the payroll period immediately preceding the filing of the petition who remain employed as of the date of the filing of the petition. (Attachment B) (b) If the employer contends that the proposed unit is inappropriate the employer must provide (1) a separate list containing the full names, work locations, shifts and job classifications of all individuals that it contends must be added to the proposed unit, if any to make it an appropriate unit, (Attachment C) and (2) a list containing the full names of any individuals it contends must be excluded from the proposed unit to make it an appropriate unit. (Attachment D)			
8a. State your position with respect to the details of any election that may be conducted in this matter. Type: <input type="checkbox"/> Manual <input type="checkbox"/> Mail <input type="checkbox"/> Mixed Manual/Mail			
8b. Date(s)	8c. Time(s)	8d. Location(s)	
8e. Eligibility Period (e.g. special eligibility formula)	8f. Last Payroll Period Ending Date	8g. Length of payroll period <input type="checkbox"/> Weekly <input type="checkbox"/> Biweekly <input type="checkbox"/> Other (specify length)	
9. Representative who will accept service of all papers for purposes of the representation proceeding			
9a. Full name and title of authorized representative		9b. Signature of authorized representative	9c. Date
9d. Address (Street and number, city, state, and ZIP code)			9e. e-Mail Address
9f. Business Phone No.:		9g. Fax No.	9h. Cell No.

WILLFUL FALSE STATEMENTS ON THIS PETITION CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)

PRIVACY ACT STATEMENT

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. Section 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing representation proceedings. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (December 13, 2006). The NLRB will further explain these uses upon request. Failure to supply the information requested by this form may preclude you from litigating issues under 102.66(d) of the Board's Rules and Regulations and may cause the NLRB to refuse to further process a representation case or may cause the NLRB to issue you a subpoena and seek enforcement of the subpoena in federal court.

QUESTIONNAIRE ON COMMERCE INFORMATION

Please read carefully, answer all applicable items, and return to the NLRB Office. If additional space is required, please add a page and identify item number.

CASE NAME

CASE NUMBER
04-RD-311366

1. EXACT LEGAL TITLE OF ENTITY (As filed with State and/or stated in legal documents forming entity)

2. TYPE OF ENTITY

☐ CORPORATION ☐ LLC ☐ LLP ☐ PARTNERSHIP ☐ SOLE PROPRIETORSHIP ☐ OTHER (Specify)

3. IF A CORPORATION or LLC

A. STATE OF INCORPORATION
OR FORMATION

B. NAME, ADDRESS, AND RELATIONSHIP (e.g. parent, subsidiary) OF ALL RELATED ENTITIES

4. IF AN LLC OR ANY TYPE OF PARTNERSHIP, FULL NAME AND ADDRESS OF ALL MEMBERS OR PARTNERS

5. IF A SOLE PROPRIETORSHIP, FULL NAME AND ADDRESS OF PROPRIETOR

6. BRIEFLY DESCRIBE THE NATURE OF YOUR OPERATIONS (Products handled or manufactured, or nature of services performed).

7A. PRINCIPAL LOCATION:

7B. BRANCH LOCATIONS:

8. NUMBER OF PEOPLE PRESENTLY EMPLOYED

A. TOTAL:

B. AT THE ADDRESS INVOLVED IN THIS MATTER:

9. DURING THE MOST RECENT (Check the appropriate box): ☐ CALENDAR ☐ 12 MONTHS or ☐ FISCAL YEAR (FY DATES _____)

YES

NO

A. Did you provide services valued in excess of \$50,000 directly to customers outside your State? If no, indicate actual value.
\$ _____

B. If you answered no to 9A, did you provide services valued in excess of \$50,000 to customers in your State who purchased goods valued in excess of \$50,000 from directly outside your State? If no, indicate the value of any such services you provided. \$ _____

C. If you answered no to 9A and 9B, did you provide services valued in excess of \$50,000 to public utilities, transit systems, newspapers, health care institutions, broadcasting stations, commercial buildings, educational institutions, or retail concerns? If less than \$50,000, indicate amount. \$ _____

D. Did you sell goods valued in excess of \$50,000 directly to customers located outside your State? If less than \$50,000, indicate amount. \$ _____

E. If you answered no to 9D, did you sell goods valued in excess of \$50,000 directly to customers located inside your State who purchased other goods valued in excess of \$50,000 from directly outside your State? If less than \$50,000, indicate amount. \$ _____

F. Did you purchase and receive goods valued in excess of \$50,000 from directly outside your State? If less than \$50,000, indicate amount. \$ _____

G. Did you purchase and receive goods valued in excess of \$50,000 from enterprises who received the goods directly from points outside your State? If less than \$50,000, indicate amount. \$ _____

H. Gross Revenues from all sales or performance of services (Check the largest amount)

☐ \$100,000 ☐ \$250,000 ☐ \$500,000 ☐ \$1,000,000 or more If less than \$100,000, indicate amount.

I. Did you begin operations within the last 12 months? If yes, specify date: _____

10. ARE YOU A MEMBER OF AN ASSOCIATION OR OTHER EMPLOYER GROUP THAT ENGAGES IN COLLECTIVE BARGAINING?

☐ YES ☐ NO (If yes, name and address of association or group).

11. REPRESENTATIVE BEST QUALIFIED TO GIVE FURTHER INFORMATION ABOUT YOUR OPERATIONS

NAME

TITLE

E-MAIL ADDRESS

TEL. NUMBER

12. AUTHORIZED REPRESENTATIVE COMPLETING THIS QUESTIONNAIRE

NAME AND TITLE (Type or Print)

SIGNATURE

E-MAIL ADDRESS

DATE

PRIVACY ACT STATEMENT

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing representation and/or unfair labor practice proceedings and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary. However, failure to supply the information may cause the NLRB to refuse to process any further a representation or unfair labor practice case, or may cause the NLRB to issue you a subpoena and seek enforcement of the subpoena in federal court.

REVIEW THE FOLLOWING IMPORTANT INFORMATION BEFORE FILLING OUT A RESPONSIVE STATEMENT OF POSITION FORM

Completing and Filing this Form: For **RC and RD petitions**, the Petitioner is required to complete this form in response to each timely filed and served Statement of Position filed by another party. For **RM petitions**, the Employer-Petitioner must complete a Responsive Statement of Position form and submit the list described below. In accordance with Section 102.63(b) of the Board's Rules, if you are required to complete the form, you must have it signed by an authorized representative, and file a completed copy with any necessary attachments, with this office and serve it on all parties named in the petition responding to the issues raised in another party's Statement of Position, such that it is received no later than noon three business days before the date of the hearing. A separate form must be completed for each timely filed and properly served Statement of Position you receive. If more space is needed for your answers, additional pages may be attached. If you have questions about this form or would like assistance in filling out this form, please contact the Board agent assigned to handle this case. **You must E-File your Responsive Statement of Position at www.NLRB.gov, but unlike other e-Filed documents, it will *not* be timely if filed on the due date but after noon in the time zone of the Region where the petition was filed. Note that if you are completing this form as a PDF downloaded from www.NLRB.gov, the form will lock upon signature and no further editing may be made.**

Required List: In addition to responding to the issues raised in another party's Statement of Position, if any, the Employer-Petitioner in an RM case is required to file and serve on the parties a list of the full names, work locations, shifts, and job classifications of all individuals in the proposed unit as of the payroll period preceding the filing of the petition who remain employed at the time of filing. This list must be alphabetized (overall or by department). Unless the employer certifies that it does not possess the capacity to produce the list in the required form, the list must be in a table in a Microsoft Word file (.doc or .docx) or a file that is compatible with Microsoft Word, the first column of the table must begin with each employee's last name, and the font size of the list must be the equivalent of Times New Roman 10 or larger. That font does not need to be used but the font must be that size or larger. A sample, optional form for the list is provided on the NLRB website at [www.nlr.gov/sites/default/files/attachments/basic-page/node-4559/Optional Forms for Voter List.docx](http://www.nlr.gov/sites/default/files/attachments/basic-page/node-4559/Optional%20Forms%20for%20Voter%20List.docx)

Consequences of Failure to Submit a Responsive Statement of Position: Failure to supply the information requested by this form may preclude you from litigating issues under 102.66(d) of the Board's Rules and Regulations. Section 102.66(d) provides as follows:

A party shall be precluded from raising any issue, presenting any evidence relating to any issue, cross-examining any witness concerning any issue, and presenting argument concerning any issue that the party failed to raise in its timely Statement of Position or to place in dispute in response to another party's Statement of Position or response, except that no party shall be precluded from contesting or presenting evidence relevant to the Board's statutory jurisdiction to process the petition. Nor shall any party be precluded, on the grounds that a voter's eligibility or inclusion was not contested at the pre-election hearing, from challenging the eligibility of any voter during the election. If a party contends that the proposed unit is not appropriate in its Statement of Position but fails to specify the classifications, locations, or other employee groupings that must be added to or excluded from the proposed unit to make it an appropriate unit, the party shall also be precluded from raising any issue as to the appropriateness of the unit, presenting any evidence relating to the appropriateness of the unit, cross-examining any witness concerning the appropriateness of the unit, and presenting argument concerning the appropriateness of the unit. If the employer fails to timely furnish the lists of employees described in §§102.63(b)(1)(iii), (b)(2)(iii), or (b)(3)(iii), the employer shall be precluded from contesting the appropriateness of the proposed unit at any time and from contesting the eligibility or inclusion of any individuals at the pre-election hearing, including by presenting evidence or argument, or by cross-examination of witnesses.

UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD
RESPONSIVE STATEMENT OF POSITION – RC, RD or RM PETITION

DO NOT WRITE IN THIS SPACE

Case No.
04-RD-311366

Date Filed
February 1, 2023

INSTRUCTIONS: If a party has submitted and served on you a timely Statement of Position to an RC, RD or RM petition, the Petitioner must submit this Responsive Statement of Position to an NLRB Office in the Region in which the petition was filed and serve it and any attachments on each party named in the petition in this case such that it is received by noon local time, three business days prior to the hearing date specified in the Notice of Hearing. A separate form must be completed for each timely filed and properly served Statement of Position received by the Petitioner. The Petitioner-Employer in a RM case is required to file this Responsive Statement of Position and include an appropriate employee list without regard to whether another party has filed a Statement of Position.

This Responsive Statement of Position is filed by the Petitioner in response to a Statement of Position received from the following party:

The Employer

An Intervenor/Union

1a. Full Name of Party Filing Responsive Statement of Position

1c. Business Phone

1d. Cell No.

1e. Fax No.

1f. E-Mail Address

1b. Address (Street and Number, City, State, and ZIP Code)

2. Identify all issues raised in the other party's Statement of Position that you dispute and describe the basis of your dispute:

a. EMPLOYER NAME/IDENTITY [Box 1a of Statement of Position Form NLRB-505 and Questionnaire on Commerce Information]

☐ No Dispute (no further response required) ☐ Dispute (response required below)

Response to Statement of Position:

b. JURISDICTION [Box 2 of Statement of Position Form NLRB-505 and Questionnaire on Commerce Information]

☐ No Dispute (no further response required) ☐ Dispute (response required below)

Response to Statement of Position:

c. APPROPRIATENESS OF UNIT [Boxes 3, 3a and 3b of Statement of Position Form NLRB-505]

☐ No Dispute (no further response required) ☐ Dispute (response required below)

Response to Statement of Position:

d. INDIVIDUAL ELIGIBILITY [Box 4 of Statement of Position Form NLRB-505]

☐ No Dispute (no further response required) ☐ Dispute (response required below)

Response to Statement of Position:

e. BARS TO ELECTION [Box 5 of Statement of Position Form NLRB-505]

☐ No Dispute (no further response required) ☐ Dispute (response required below)

Response to Statement of Position:

f. ALL OTHER ISSUES [Box 6 of Statement of Position Form NLRB-505]

☐ No Dispute (no further response required) ☐ Dispute (response required below)

Response to Statement of Position:

g. ELECTION DETAILS [Boxes 8a, 8b, 8c, 8d, 8e, 8f, and 8g of Statement of Position Form NLRB-505]

☐ No Dispute (no further response required) ☐ Dispute (response required below)

Response to Statement of Position:

Full Name and Title of Authorized Representative

Signature of Authorized Representative

Date

WILLFUL FALSE STATEMENTS ON THIS PETITION CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001) PRIVACY ACT STATEMENT

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. Section 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing representation proceedings. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. 74942-43 (December 13, 2006). The NLRB will further explain these uses upon request. Failure to supply the information requested by this form may preclude you from litigating issues under 102.66(d) of the Board's Rules and Regulations and may cause the NLRB to refuse to further process a representation case or may cause the NLRB to issue you a subpoena and seek enforcement of the subpoena in federal court.

Please fill all necessary fields on the form PRIOR to digitally signing. To make changes after the form has been signed, right-click on the signature field and click "clear signature." Once complete, please sign the form.

**UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD**

**DESCRIPTION OF VOTER LIST REQUIREMENT AFTER HEARING IN CERTIFICATION AND
DECERTIFICATION CASES**

If an election is directed, the employer must provide the voter list. To be timely filed and served, the voter list must be *received* by the Regional Director and the parties named in the Decision and Direction of Election within 2 business days after the issuance of the Decision unless a longer period, based on extraordinary circumstances, is specified in the Decision and Direction of Election. A certificate of service on all parties must be filed with the Regional Director when the voter list is filed. The region will not serve the voter list.

List Contents - The list must include the full names, work locations, shifts, job classifications, and contact information (including home addresses, available personal email addresses and available home and personal cellular telephone numbers of all eligible voters). The Employer must also include in separate sections of that list the same information for those individuals the parties have agreed will be permitted to vote subject to challenge or those individuals who, according to the Decision and Direction of Election, will be permitted to vote subject to challenge.

List Format - The list must be in an electronic format approved by the General Counsel, unless the Employer certifies that it does not have the capacity to produce the list in the required format. Accordingly, unless otherwise agreed to by the parties, the list must be provided in a table in a Microsoft Word file (.doc or .docx) or a file that is compatible with Microsoft Word (.doc or .docx). The first column of the list must begin with each employee's last name and the list must be alphabetized (overall or by department) by last name. Because the list will be used during the election, the font size of the list must be the equivalent of Times New Roman 10 or larger. That font does not need to be used but the font must be that size or larger. A sample, optional form for the list is provided on the NLRB website at: **[www.nlr.gov/sites/default/files/attachments/basic-page/node-4559/Optional Forms for Voter List.docx](http://www.nlr.gov/sites/default/files/attachments/basic-page/node-4559/Optional%20Forms%20for%20Voter%20List.docx)**.

It may be appropriate for the Employer to produce multiple versions of the list where the data required is kept in separate databases or files so long as all of the lists link the information to the same employees, using the same names, in the same order and are provided within the allotted time. If the Employer provides multiple lists, the list used at the election will be the list containing the employees' names and addresses.

Filing of the List - The voter list must be filed electronically by submitting (E-Filing) it through the Agency's website (www.nlr.gov), unless the Employer provides a written statement explaining why electronic submission is not possible or feasible. The Employer must also electronically serve the list on the other parties. To file electronically, go to www.nlr.gov, click on *E-File Case Documents*, and follow the detailed instructions. The burden of establishing the timely filing and receipt of the list is on the sending party. If you have questions about the submission, please promptly contact the Board agent investigating the petition.

Service of the List - The list must be served on the parties named in the Decision and Direction of Election within 2 business days after issuance of the Decision, unless another date has been specified. A certificate of service on all parties must be filed with the Regional Director when the voter list is filed. The Employer's failure to file or serve the list within the specified time or in proper format shall be grounds for setting aside the election whenever proper and timely objections are filed. The Employer may not object to the failure to file or serve the list within the specified time or in the proper format if it is responsible for the failure.

The parties are not allowed to use the list for purposes other than the representation proceeding, Board proceedings arising from it, and related matters.



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

REGION 4
100 E Penn Square
Suite 403
Philadelphia, PA 19107

Agency Website: www.nlrb.gov
Telephone: (215)597-7601
Fax: (215)597-7658



Download
NLRB
Mobile App

February 2, 2023

URGENT

IUOELocal542@yahoo.com

IUOE Local 542
1375 Virginia Drive
Suite 100
Fort Washington, PA 19034

Re: GFP Mobile Mix Supply LLC
Case 04-RD-311366

Dear Sir or Madam:

Enclosed is a copy of a petition that Vance Pennington filed with the National Labor Relations Board (NLRB) seeking an election involving certain employees for which you are the exclusive collective bargaining representative. Please read this letter carefully to make sure you are aware of the union's obligations. This letter tells you how to contact the Board agent who will be handling this matter, about the Employer's requirement to post and distribute the Notice of Petition for Election, the requirement that you complete and serve a Statement of Position Form, the petitioner's requirement to complete and serve a Responsive Statement of Position Form, a scheduled hearing in this matter, other information needed, your right to be represented, and NLRB procedures, including how to submit documents.

Investigator: This petition will be investigated by Field Examiner MARY R. LEACH whose telephone number is (215)597-9676. The Board agent will contact you shortly to discuss processing the petition. If you have any questions, please do not hesitate to call the Board agent. The Board agent may also contact you and the other party or parties to schedule a conference meeting or telephonic or video conference for some time before the close of business the day following receipt of the final Responsive Statement(s) of Position. This will give the parties sufficient time to determine if any issues can be resolved prior to hearing or if a hearing is necessary. If the agent is not available, you may contact Supervisory Attorney PATRICIA A. GARBER whose telephone number is (215)597-7625. If appropriate, the NLRB attempts to schedule an election either by agreement of the parties or by holding a hearing and then directing an election.

The Union's Required Statement of Position: In accordance with Section 102.63(b) of the Board's Rules, the union is required to complete the enclosed Statement of Position form,

have it signed by an authorized representative, and file a completed copy (with all required attachments) with this office and serve it on all parties named in the petition such that it is received by them by **noon Eastern Time** on Tuesday, February 14, 2023. This form solicits information that will facilitate entry into election agreements or streamline the pre-election hearing if the parties are unable to enter into an election agreement. **This form must be e-Filed, but unlike other e-Filed documents, will not be timely if filed on the due date but after noon Eastern Time.** If you have questions about this form or would like assistance in filling out this form, please contact the Board agent named above.

Failure to Supply Information: Failure to supply the information requested by this form may preclude you from litigating issues under Section 102.66(d) of the Board's Rules and Regulations. Section 102.66(d) provides as follows:

A party shall be precluded from raising any issue, presenting any evidence relating to any issue, cross-examining any witness concerning any issue, and presenting argument concerning any issue that the party failed to raise in its timely Statement of Position or to place in dispute in response to another party's Statement of Position or response, except that no party shall be precluded from contesting or presenting evidence relevant to the Board's statutory jurisdiction to process the petition. Nor shall any party be precluded, on the grounds that a voter's eligibility or inclusion was not contested at the pre-election hearing, from challenging the eligibility of any voter during the election. If a party contends that the proposed unit is not appropriate in its Statement of Position but fails to specify the classifications, locations, or other employee groupings that must be added to or excluded from the proposed unit to make it an appropriate unit, the party shall also be precluded from raising any issue as to the appropriateness of the unit, presenting any evidence relating to the appropriateness of the unit, cross-examining any witness concerning the appropriateness of the unit, and presenting argument concerning the appropriateness of the unit. If the employer fails to timely furnish the lists of employees described in §§ 102.63(b)(1)(iii), (b)(2)(iii), or (b)(3)(iii), the employer shall be precluded from contesting the appropriateness of the proposed unit at any time and from contesting the eligibility or inclusion of any individuals at the pre-election hearing, including by presenting evidence or argument, or by cross-examination of witnesses.

The Employer's Required Statement of Position: In accordance with Section 102.63(b) of the Board's Rules, the employer is required to complete the enclosed Statement of Position form (including the attached Commerce Questionnaire), have it signed by an authorized representative, and file a completed copy (with all required attachments) with this office and serve it on all parties named in the petition such that it is received by them by **noon Eastern Time on Tuesday, February 14, 2023.** This form solicits information that will facilitate entry into election agreements or streamline the pre-election hearing if the parties are unable to enter into an election agreement. **This form must be e-Filed, but unlike other e-Filed documents, will not be timely if filed on the due date but after noon Eastern Time.**

List(s) of Employees: The employer's Statement of Position must include a list of the full names, work locations, shifts, and job classifications of all individuals in the proposed unit as of the payroll period preceding the filing of the petition who remain employed at the time of filing. If the employer contends that the proposed unit is inappropriate, the employer must separately list the full names, work locations, shifts and job classifications of all individuals that it contends must be added to the proposed unit to make it an appropriate unit. The employer must also indicate those individuals, if any, whom it believes must be excluded from the proposed unit to make it an appropriate unit. These lists must be alphabetized (overall or by department). Unless the employer certifies that it does not possess the capacity to produce the lists in the required form, the lists must be in a table in a Microsoft Word file (.doc or .docx) or a file that is compatible with Microsoft Word, the first column of the table must begin with each employee's last name, and the font size of the list must be the equivalent of Times New Roman 10 or larger. That font does not need to be used but the font must be that size or larger. A sample, optional form for the list is provided on the NLRB website at [www.nlr.gov/sites/default/files/attachments/basic-page/node-4559/Optional Forms for Voter List.docx](http://www.nlr.gov/sites/default/files/attachments/basic-page/node-4559/Optional%20Forms%20for%20Voter%20List.docx)

Responsive Statement of Position: In accordance with Section 102.63(b) of the Board's Rules, following timely filing and service of a Statement of Position, the petitioner is required to complete the enclosed Responsive Statement of Position form addressing the issues raised in the Statement of Position. The petitioner must file a completed, signed copy in response to any timely filed and served Statement of Position by any party, with any necessary attachments, with this office and serve it on all parties named in the petition, such that it is received no later than **noon Eastern Time on Friday, February 17, 2023.**

Notice of Hearing: Enclosed is a Notice of Representation Hearing to be conducted at **10:00 AM on Thursday, February 23, 2023 by audioconference or videoconference, as appropriate,** if the parties do not voluntarily agree to an election. If a hearing is necessary, the hearing will run on consecutive days until concluded unless the regional director concludes that extraordinary circumstances warrant otherwise. Before the hearing begins, the NLRB will continue to explore potential areas of agreement with the parties in order to reach an election agreement and to eliminate or limit the costs associated with formal hearings.

Upon request of a party showing good cause, the regional director may postpone the hearing. A party desiring a postponement should make the request to the regional director in writing, set forth in detail the grounds for the request, and include the positions of the other parties regarding the postponement. E-Filing the request is required. A copy of the request must be served simultaneously on all the other parties, and that fact must be noted in the request.

Posting and Distribution of Notice: The Employer must post the enclosed Notice of Petition for Election by **Thursday, February 9th, 2023** in conspicuous places, including all places where notices to employees are customarily posted. If it customarily communicates electronically with its employees in the petitioned-for unit, it must also distribute the notice electronically to them. The Employer must maintain the posting until the petition is dismissed or withdrawn or this notice is replaced by the Notice of Election. Failure to post or distribute the notice may be grounds for setting aside the election if proper and timely objections are filed.

Other Information Needed Now: Please submit to this office, as soon as possible, the following information needed to handle this matter:

- (a) The correct name of the Union as stated in its constitution or bylaws.
- (b) A copy of any existing or recently expired collective-bargaining agreements, and any addenda or extensions, or any recognition agreements covering any employees in the petitioned-for unit.
- (c) If potential voters will need notices or ballots translated into a language other than English, the names of those languages and dialects, if any.
- (d) The name and contact information for any other labor organization (union) claiming to represent or have an interest in any of the employees in the petitioned-for unit and for any employer who may be a joint employer of the employees in the proposed unit. Failure to disclose the existence of an interested party may delay the processing of the petition.

Voter List: If an election is held in this matter, the employer must transmit to this office and to the other parties to the election, an alphabetized list of the full names, work locations, shifts, job classifications, and contact information (including home addresses, available personal email addresses, and available home and personal cellular telephone numbers) of eligible voters. Usually, the list must be furnished within 2 business days of the issuance of the Decision and Direction of Election or approval of an election agreement. The list must be electronically filed with the Region and served electronically on the other parties. To guard against potential abuse, this list may not be used for purposes other than the representation proceeding, NLRB proceedings arising from it or other related matters.

Under existing NLRB practice, an election is not ordinarily scheduled for a date earlier than 10 days after the date when the Employer must file the voter list with the Regional Office. However, a petitioner and/or union entitled to receive the voter list may waive all or part of the 10-day period by executing Form NLRB-4483, which is available on the NLRB's website or from an NLRB office. A waiver will not be effective unless all parties who are entitled to the voter list agree to waive the same number of days.

Right to Representation: You have the right to be represented by an attorney or other representative in any proceeding before the NLRB. In view of our policy of processing these cases expeditiously, if you wish to be represented, you should obtain representation promptly. Your representative must notify us in writing of this fact as soon as possible by completing Form NLRB-4701, Notice of Appearance. This form is available on our website, www.nlr.gov, or from an NLRB office upon your request.

If someone contacts you about representing you in this case, please be assured that no organization or person seeking your business has any "inside knowledge" or favored relationship with the NLRB. Their knowledge regarding this matter was obtained only through access to information that must be made available to any member of the public under the Freedom of Information Act.

Procedures: Pursuant to Section 102.5 of the Board's Rules and Regulations, parties must submit all documentary evidence, including statements of position, exhibits, sworn statements, and/or other evidence, by electronically submitting (E-Filing) them through the Agency's web site (www.nlr.gov). You must e-file all documents electronically or provide a written statement explaining why electronic submission is not possible or feasible. Failure to comply with Section 102.5 will result in rejection of your submission. The Region will make its determinations solely based on the documents and evidence properly submitted. All evidence submitted electronically should be in the form in which it is normally used and maintained in the course of business (i.e., native format). Where evidence submitted electronically is not in native format, it should be submitted in a manner that retains the essential functionality of the native format (i.e., in a machine-readable and searchable electronic format). If you have questions about the submission of evidence or expect to deliver a large quantity of electronic records, please promptly contact the Board agent investigating the petition.

Controlled Unclassified Information (CUI): This National Labor Relations Board (NLRB) proceeding may contain Controlled Unclassified Information (CUI). Subsequent information in this proceeding may also constitute CUI. National Archives and Records Administration (NARA) regulations at 32 CFR Part 2002 apply to all executive branch agencies that designate or handle information that meets the standards for CUI.

* * *

Information about the NLRB and our customer service standards is available on our website, www.nlr.gov, or from an NLRB office upon your request. We can provide assistance for persons with limited English proficiency or disability. Please let us know if you or any of your witnesses would like such assistance.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Emily DeSa', with a long horizontal line extending to the right.

Emily DeSa
Acting Regional Director

Enclosures

1. Petition
2. Notice of Petition for Election (Form 5492)
3. Notice of Representation Hearing
4. Description of Procedures in Certification and Decertification Cases (Form 4812)
5. Statement of Position form and Commerce Questionnaire (Form 505)
6. Responsive Statement of Position (Form 506)
7. Description of Voter List Requirement after Hearing in Certification and Decertification Cases (Form 5580)



National Labor Relations Board



NOTICE OF PETITION FOR ELECTION

This notice is to inform employees that Vance Pennington has filed a petition with the National Labor Relations Board (NLRB), a Federal agency, in Case 04-RD-311366 seeking an election to determine if the employees of GFP Mobile Mix Supply, LLC in the unit set forth below wish to be represented by IUOE Local 542 for the purposes of collective bargaining:

Included: Ready-Mix Concrete Operators/Drivers

Excluded: All others

This notice also provides you with information about your basic rights under the National Labor Relations Act, the processing of the petition, and rules to keep NLRB elections fair and honest.

YOU HAVE THE RIGHT under Federal Law

- To self-organization
- To form, join, or assist labor organizations
- To bargain collectively through representatives of your own choosing
- To act together for the purposes of collective bargaining or other mutual aid or protection
- To refuse to do any or all of these things unless the union and employer, in a state where such agreements are permitted, enter into a lawful union-security agreement requiring employees to pay periodic dues and initiation fees. Nonmembers who inform the union that they object to the use of their payments for nonrepresentational purposes may be required to pay only their share of the union's costs of representational activities (such as collective bargaining, contract administration, and grievance adjustments).

PROCESSING THIS PETITION

Elections do not necessarily occur in all cases after a petition is filed. **NO FINAL DECISIONS HAVE BEEN MADE YET** regarding the appropriateness of the proposed unit or whether an election will be held in this matter. If appropriate, the NLRB will first see if the parties will enter into an election agreement that specifies the method, date, time, and location of an election and the unit of employees eligible to vote. If the parties do not enter into an election agreement, usually a hearing is held to receive evidence on the appropriateness of the unit and other issues in dispute. After a hearing, an election may be directed by the NLRB, if appropriate.

IF AN ELECTION IS HELD, it will be conducted by the NLRB by secret ballot and Notices of Election will be posted before the election giving complete details for voting.

ELECTION RULES

The NLRB applies rules that are intended to keep its elections fair and honest and that result in a free choice. If agents of any party act in such a way as to interfere with your right to a free election, the election can be set aside by the NLRB. Where appropriate the NLRB provides other remedies, such as reinstatement for employees fired for exercising their rights, including backpay from the party responsible for their discharge.

The following are examples of conduct that interfere with employees' rights and may result in setting aside the election:

- Threatening loss of jobs or benefits by an employer or a union
- Promising or granting promotions, pay raises, or other benefits, to influence an employee's vote by a party capable of carrying out such promises
- An employer firing employees to discourage or encourage union activity or a union causing them to be fired to encourage union activity
- Making campaign speeches to assembled groups of employees on company time, where attendance is mandatory, within the 24-hour period before the polls for the election first open or, if the election is conducted by mail, from the time and date the ballots are scheduled to be sent out by the Region until the time and date set for their return
- Incitement by either an employer or a union of racial or religious prejudice by inflammatory appeals
- Threatening physical force or violence to employees by a union or an employer to influence their votes

Please be assured that IF AN ELECTION IS HELD, every effort will be made to protect your right to a free choice under the law. Improper conduct will not be permitted. All parties are expected to cooperate fully with the NLRB in maintaining basic principles of a fair election as required by law. The NLRB as an agency of the United States Government does not endorse any choice in the election.

For additional information about the processing of petitions, go to www.nlr.gov or contact the NLRB at (215)597-7601.

THIS IS AN OFFICIAL GOVERNMENT NOTICE AND MUST NOT BE DEFACED BY ANYONE. IT MUST REMAIN POSTED WITH ALL PAGES SIMULTANEOUSLY VISIBLE UNTIL REPLACED BY THE NOTICE OF ELECTION OR THE PETITION IS DISMISSED OR WITHDRAWN.



National Labor Relations Board





**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 4**



GFP Mobile Mix Supply, LLC Employer and Vance Pennington Petitioner and IUOE Local 542 Union	Case 04-RD-311366
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NOTICE OF REPRESENTATION HEARING

The Petitioner filed the attached petition pursuant to Section 9(c) of the National Labor Relations Act. It appears that a question affecting commerce exists as to whether the employees in the unit described in the petition wish to be represented by a collective-bargaining representative as defined in Section 9(a) of the Act.

YOU ARE HEREBY NOTIFIED that, pursuant to Sections 3(b) and 9(c) of the Act, at 10:00 AM on **Thursday, February 23, 2023** and on consecutive days thereafter until concluded, **by audioconference or videoconference, as appropriate,** a hearing will be conducted before a hearing officer of the National Labor Relations Board. At the hearing, the parties will have the right to appear in person or otherwise, and give testimony.

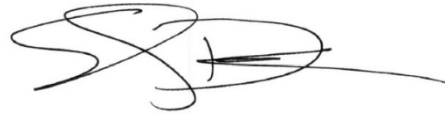
YOU ARE FURTHER NOTIFIED that, pursuant to Section 102.63(b) of the Board's Rules and Regulations, GFP Mobile Mix Supply, LLC and IUOE Local 542 must complete the Statement of Position and file it and all attachments with the Regional Director and serve it on the parties listed on the petition such that is received by them by no later than **noon** Eastern time on **Tuesday, February 14, 2023**. Following timely filing and service of a Statement of Position by GFP Mobile Mix Supply, LLC and IUOE Local 542, the Petitioner must complete its Responsive Statement of Position(s) responding to the issues raised in the Employer's and/or Union's Statement of Position and file them and all attachments with the Regional Director and serve them on the parties named in the petition such that they are received by them no later than **noon** Eastern on **Friday, February 17, 2023**.

Pursuant to Section 102.5 of the Board's Rules and Regulations, all documents filed in cases before the Agency must be filed by electronically submitting (E-Filing) through the Agency's website (www.nlrb.gov), unless the party filing the document does not have access to the means for filing electronically or filing electronically would impose an undue burden. Documents filed by means other than E-Filing must be accompanied by a statement explaining

why the filing party does not have access to the means for filing electronically or filing electronically would impose an undue burden. Detailed instructions for using the NLRB's E-Filing system can be found in the [E-Filing System User Guide](#).

The Statement of Position and Responsive Statement of Position must be E-Filed but, unlike other E-Filed documents, must be filed by **noon** Eastern on the due date in order to be timely. If an election agreement is signed by all parties and returned to the Regional Office before the due date of the Statement of Position, the Statement of Position and Responsive Statement of Position are not required to be filed. If an election agreement is signed by all parties and returned to the Regional office after the due date of the Statement of Position but before the due date of the Responsive Statement of Position, the Responsive Statement of Position is not required to be filed.

Dated: February 2, 2023

A handwritten signature in black ink, appearing to read 'SD' with a stylized flourish extending to the right.

Emily DeSa
Acting Regional Director
National Labor Relations Board
Region 04
100 E Penn Square
Suite 403
Philadelphia, PA 19107

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD**

GFP Mobile Mix Supply, LLC Employer and Vance Pennington Petitioner and IUOE Local 542 Union	Case 04-RD-311366
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AFFIDAVIT OF SERVICE OF: Petition dated February 1, 2023, Notice of Representation Hearing dated February 2, 2023, Description of Procedures in Certification and Decertification Cases (Form NLRB-4812), Notice of Petition for Election, and Statement of Position Form (Form NLRB-505).

I, the undersigned employee of the National Labor Relations Board, being duly sworn, say that on February 2, 2023, I served the above documents by electronic mail and regular mail upon the following persons, addressed to them at the following addresses:

Dominic Papa
GFP Mobile Mix Supply, LLC
14 Hadco Road
Wilmington, DE 19804
dominic.papa@gfpcement.com

Vance Pennington, Ready-Mix Concrete
Operator
162 Garner Drive
Avondale, PA 19311
vpennington88@gmail.com

IUOE Local 542
1375 Virginia Drive
Suite 100
Fort Washington, PA 19034
IUOELocal542@yahoo.com

February 2, 2023

Date

Shanda A Washington,
Designated Agent of NLRB

Name

/s/ Shanda A Washington

Signature

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD

**DESCRIPTION OF REPRESENTATION CASE PROCEDURES
IN CERTIFICATION AND DECERTIFICATION CASES**

The National Labor Relations Act grants employees the right to bargain collectively through representatives of their own choosing and to refrain from such activity. A party may file an RC, RD or RM petition with the National Labor Relations Board (NLRB) to conduct a secret ballot election to determine whether a representative will represent, or continue to represent, a unit of employees. An **RC** petition is generally filed by a union that desires to be certified as the bargaining representative. An **RD** petition is filed by employees who seek to remove the currently recognized union as the bargaining representative. An **RM** petition is filed by an employer who seeks an election because one or more individuals or unions have sought recognition as the bargaining representative, or based on a reasonable belief supported by objective considerations that the currently recognized union has lost its majority status. This form generally describes representation case procedures in RC, RD and RM cases, also referred to as certification and decertification cases.

Right to be Represented – Any party to a case with the NLRB has the right to be represented by an attorney or other representative in any proceeding before the NLRB. A party wishing to have a representative appear on its behalf should have the representative complete a Notice of Appearance (Form NLRB-4701), and E-File it at www.nlr.gov or forward it to the NLRB Regional Office handling the petition as soon as possible.

Filing and Service of Petition – A party filing an RC, RD or RM petition is required to serve a copy of its petition on the parties named in the petition along with this form and the Statement of Position form. The petitioner files the petition with the NLRB, together with (1) a certificate showing service of these documents on the other parties named in the petition, and (2) a showing of interest to support the petition. The showing of interest is not served on the other parties.

Notice of Hearing – After a petition in a certification or decertification case is filed with the NLRB, the NLRB reviews the petition, certificate of service, and the required showing of interest for sufficiency, assigns the petition a case number, and promptly sends letters to the parties notifying them of the Board agent who will be handling the case. In most cases, the letters include a Notice of Representation Hearing. Except in cases presenting unusually complex issues, this pre-election hearing is set for a date 14 business days (excluding weekends and federal holidays) from the date of service of the notice of hearing. Once the hearing begins, it will continue day to day until completed absent extraordinary circumstances. The Notice of Representation Hearing also sets the due date for filing and serving the Statement(s) of Position and the Responsive Statement of Position(s). Included with the Notice of Representation Hearing are the following: (1) copy of the petition, (2) this form, (3) Statement of Position for non-petitioning parties, (4) petitioner's Responsive Statement of Position, (5) Notice of Petition for Election, and (6) letter advising how to contact the Board agent who will be handling the case and discussing those documents.

Hearing Postponement: Requests to postpone the hearing are not routinely granted, but the regional director may postpone the hearing for good cause. A party wishing to request a postponement should make the request in writing and set forth in detail the grounds for the request. The request should include the positions of the other parties regarding the postponement. The request must be filed electronically ("E-Filed") on the Agency's website (www.nlr.gov) by following the instructions on the website. A copy of the request must be served simultaneously on all the other parties, and that fact must be noted in the request.

Statement of Position Form and List(s) of Employees – The Statement of Position form solicits commerce and other information that will facilitate entry into election agreements or streamline the pre-election hearing if the parties are unable to enter into an election agreement. In an **RC** or **RD** case, as part of its Statement of Position form, the employer also provides a list of the full names, work locations, shifts, and job classifications of all individuals in the proposed unit. If the employer contends that the proposed unit is not appropriate, the employer must separately list the same information for all individuals that the employer contends must be added to the proposed unit to make it an appropriate unit, and must further indicate those individuals, if any, whom it believes must be excluded from the proposed unit to make it an appropriate unit. These lists must be alphabetized (overall or by department). Unless the employer certifies that it does not possess the capacity to produce the lists in the required form, the lists must be in a table in a Microsoft Word file (.doc or .docx) or a file that is compatible with Microsoft Word, the first column of the table must begin with each employee's last name, and the font size of the list must be the equivalent of Times New Roman 10 or larger. That font does not need to be used but the font must be that size or larger. A sample, optional

form for the list is provided on the NLRB website at www.nlr.gov/sites/default/files/attachments/basic-page/node-4559/Optional Forms for Voter List.docx

Ordinarily the Statement of Position must be filed with the Regional Office and served on the other parties such that it is received by them by noon 8 business days from the issuance of the Notice of Hearing. The regional director may postpone the due date for filing and serving the Statement of Position for good cause. The Statement of Position form must be E-Filed but, unlike other E-Filed documents, will not be timely if filed on the due date but after noon in the time zone of the Region where the petition is filed. Consequences for failing to satisfy the Statement of Position requirement are discussed on the following page under the heading "Preclusion." A request to postpone the hearing will not automatically be treated as a request for an extension of the Statement of Position due date. If a party wishes to request both a postponement of the hearing and a postponement of the Statement of Position due date, the request must make that clear and must specify the reasons that postponements of both are sought.

Responsive Statement of Position – Petitioner's Responsive Statement(s) of Position solicits a response to the Statement(s) of Position filed by the other parties and further facilitates entry into election agreements or streamlines the preelection hearing. A petitioner must file a Responsive Statement of Position in response to each party's Statement of Position addressing each issue in each Statement of Position(s), if desired. In the case of an RM petition, the employer-petitioner must also provide commerce information and file and serve a list of the full names, work locations, shifts, and job classifications of all individuals in the proposed unit. Ordinarily, the Responsive Statement of Position must be electronically filed with the Regional Office and served on the other parties such that it is received by noon 3 business days prior to the hearing. The regional director may postpone the due date for filing and serving the Responsive Statement of Position for good cause. The Responsive Statement of Position form must be E-Filed but, unlike other E-Filed documents, will not be timely if filed on the due date but after noon in the time zone of the Region where the petition is filed. Consequences for failing to satisfy the Responsive Statement of Position requirement are discussed on the following page under the heading "Preclusion." A request to postpone the hearing will not automatically be treated as a request for an extension of the Responsive Statement of Position due date. If a party wishes to request both a postponement of the hearing and a Postponement of the Responsive Statement of Position due date, the request must make that clear and must specify the reasons that postponements of both are sought.

Posting and Distribution of Notice of Petition for Election – Within 5 business days after service of the notice of hearing, the employer must post the Notice of Petition for Election in conspicuous places, including all places where notices to employees are customarily posted, and must also distribute it electronically to the employees in the petitioned-for unit if the employer customarily communicates with these employees electronically. The employer must maintain the posting until the petition is dismissed or withdrawn, or the Notice of Petition for Election is replaced by the Notice of Election. The employer's failure properly to post or distribute the Notice of Petition for Election may be grounds for setting aside the election if proper and timely objections are filed.

Election Agreements – Elections can occur either by agreement of the parties or by direction of the regional director or the Board. Three types of agreements are available: (1) a Consent Election Agreement (Form NLRB-651); (2) a Stipulated Election Agreement (Form NLRB-652); and (3) a Full Consent Agreement (Form NLRB-5509). In the Consent Election Agreement and the Stipulated Election Agreement, the parties agree on an appropriate unit and the method, date, time, and place of a secret ballot election that will be conducted by an NLRB agent. In the Consent Agreement, the parties also agree that post-election matters (election objections or determinative challenged ballots) will be resolved with finality by the regional director; whereas in the Stipulated Election Agreement, the parties agree that they may request Board review of the regional director's post-election determinations. A Full Consent Agreement provides that the regional director will make final determinations regarding all pre-election and post-election issues.

Hearing Cancellation Based on Agreement of the Parties – The issuance of the Notice of Representation Hearing does not mean that the matter cannot be resolved by agreement of the parties. On the contrary, the NLRB encourages prompt voluntary adjustments and the Board agent assigned to the case will work with the parties to enter into an election agreement, so the parties can avoid the time and expense of participating in a hearing.

Hearing – A hearing will be held unless the parties enter into an election agreement approved by the regional director or the petition is dismissed or withdrawn.

Purpose of Hearing: The primary purpose of a pre-election hearing is to determine if a question of representation exists. A question of representation exists if a proper petition has been filed concerning a unit

appropriate for the purpose of collective bargaining or, in the case of a decertification petition, concerning a unit in which a labor organization has been certified or is being currently recognized by the employer as the bargaining representative.

Issues at Hearing: Issues that might be litigated at the pre-election hearing include: jurisdiction; labor organization status; bars to elections; unit appropriateness; expanding and contracting unit issues; inclusion of professional employees with nonprofessional employees; seasonal operation; potential mixed guard/non-guard unit; and eligibility formulas. At the hearing, the timely filed Statement of Position and Responsive Statement of Position(s) will be received into evidence. The hearing officer will not receive evidence concerning any issue as to which the parties have not taken adverse positions, except for evidence regarding the Board's jurisdiction over the employer and evidence concerning any issue, such as the appropriateness of the proposed unit, as to which the regional director determines that record evidence is necessary.

Preclusion: At the hearing, a party will be precluded from raising any issue, presenting any evidence relating to any issue, cross-examining any witness concerning any issue, and presenting argument concerning any issue that the party failed to raise in its timely Statement of Position or Responsive Statement of Position(s) or to place in dispute in timely response to another party's Statement of Position or response, except that no party will be precluded from contesting or presenting evidence relevant to the Board's statutory jurisdiction to process the petition. Nor shall any party be precluded, on the grounds that a voter's eligibility or inclusion was not contested at the pre-election hearing, from challenging the eligibility of any voter during the election. If a party contends that the proposed unit is not appropriate in its Statement of Position but fails to specify the classifications, locations, or other employee groupings that must be added to or excluded from the proposed unit to make it an appropriate unit, the party shall also be precluded from raising any issue as to the appropriateness of the unit, presenting any evidence relating to the appropriateness of the unit, cross examining any witness concerning the appropriateness of the unit, and presenting argument concerning the appropriateness of the unit. As set forth in §102.66(d) of the Board's rules, if the employer fails to timely furnish the lists of employees, the employer will be precluded from contesting the appropriateness of the proposed unit at any time and from contesting the eligibility or inclusion of any individuals at the pre-election hearing, including by presenting evidence or argument, or by cross-examination of witnesses.

Conduct of Hearing: If held, the hearing is usually open to the public and will be conducted by a hearing officer of the NLRB. Any party has the right to appear at any hearing in person, by counsel, or by other representative, to call, examine, and cross-examine witnesses, and to introduce into the record evidence of the significant facts that support the party's contentions and are relevant to the existence of a question of representation. The hearing officer also has the power to call, examine, and cross-examine witnesses and to introduce into the record documentary and other evidence. Witnesses will be examined orally under oath. The rules of evidence prevailing in courts of law or equity shall not be controlling. Parties appearing at any hearing who have or whose witnesses have disabilities falling within the provisions of Section 504 of the Rehabilitation Act of 1973, as amended, and 29 C.F.R. 100.503, and who in order to participate in this hearing need appropriate auxiliary aids, as defined in 29 C.F.R. 100.503, should notify the regional director as soon as possible and request the necessary assistance.

Official Record: An official reporter will make the only official transcript of the proceedings and all citations in briefs or arguments must refer to the official record. (Copies of exhibits should be supplied to the hearing officer and other parties at the time the exhibit is offered in evidence.) All statements made at the hearing will be recorded by the official reporter while the hearing is on the record. If a party wishes to make off-the-record remarks, requests to make such remarks should be directed to the hearing officer and not to the official reporter. After the close of the hearing, any request for corrections to the record, either by stipulation or motion, should be forwarded to the regional director.

Motions and Objections: All motions must be in writing unless stated orally on the record at the hearing and must briefly state the relief sought and the grounds for the motion. A copy of any motion must be served immediately on the other parties to the proceeding. Motions made during the hearing are filed with the hearing officer. All other motions are filed with the regional director, except that motions made after the transfer of the record to the Board are filed with the Board. If not E-Filed, an original and two copies of written motions shall be filed. Statements of reasons in support of motions or objections should be as concise as possible. Objections shall not be deemed waived by further participation in the hearing. On appropriate request, objections may be permitted to stand to an entire line of questioning. Automatic exceptions will be allowed to all adverse rulings.

Election Details: Prior to the close of the hearing the hearing officer will: (1) solicit the parties' positions (but will not permit litigation) on the type, date(s), time(s), and location(s) of the election and the eligibility period; (2) solicit the name, address, email address, facsimile number, and phone number of the employer's on-site representative to whom the regional director should transmit the Notice of Election if an election is directed; (3) inform the parties that the regional director will issue a decision as soon as practicable and will immediately transmit the document to the parties and their designated representatives by email, facsimile, or by overnight mail (if neither an email address nor facsimile number was provided); and (4) inform the parties of their obligations if the director directs an election and of the time for complying with those obligations.

Oral Argument and Briefs: Upon request, any party is entitled to a reasonable period at the close of the hearing for oral argument, which will be included in the official transcript of the hearing. At any time before the close of the hearing, any party may file a memorandum addressing relevant issues or points of law. Post-hearing briefs shall be due within 5 business days of the close of the hearing. The hearing officer may allow up to 10 additional business days for such briefs prior to the close of hearing and for good cause. If filed, copies of the memorandum or brief shall be served on all other parties to the proceeding and a statement of such service shall be filed with the memorandum or brief. No reply brief may be filed except upon special leave of the regional director. Briefs including electronic documents, filed with the Regional Director must be formatted as double-spaced in an 8½ by 11 inch format and must be e-filed through the Board's website, www.nlr.gov.

Regional Director Decision - After the hearing, the regional director issues a decision directing an election, dismissing the petition or reopening the hearing. A request for review of the regional director's pre-election decision may be filed with the Board at any time after issuance of the decision until 10 business days after a final disposition of the proceeding by the regional director. Accordingly, a party need not file a request for review before the election in order to preserve its right to contest that decision after the election. Instead, a party can wait to see whether the election results have mooted the basis of an appeal. The Board will grant a request for review only where compelling reasons exist therefor.

Voter List – The employer must provide to the regional director and the parties named in the election agreement or direction of election a list of the full names, work locations, shifts, job classifications, and contact information (including home addresses, available personal email addresses, and available home and personal cellular ("cell") telephone numbers) of all eligible voters. (In construction industry elections, unless the parties stipulate to the contrary, also eligible to vote are all employees in the unit who either (1) were employed a total of 30 working days or more within the 12 months preceding the election eligibility date or (2) had some employment in the 12 months preceding the election eligibility date and were employed 45 working days or more within the 24 months immediately preceding the election eligibility date. However, employees meeting either of those criteria who were terminated for cause or who quit voluntarily prior to the completion of the last job for which they were employed, are not eligible.) The employer must also include in a separate section of the voter list the same information for those individuals whom the parties have agreed should be permitted to vote subject to challenge or those individuals who, according to the direction of election, will be permitted to vote subject to challenge. The list of names must be alphabetized (overall or by department) and be in the same Microsoft Word file (or Microsoft Word compatible file) format as the initial lists provided with the Statement of Position form unless the parties agree to a different format or the employer certifies that it does not possess the capacity to produce the list in the required form. When feasible, the list must be filed electronically with the regional director and served electronically on the other parties named in the agreement or direction. To be timely filed and served, the voter list must be received by the regional director and the parties named in the agreement or direction respectively within 2 business days after the approval of the agreement or issuance of the direction of elections unless a longer time is specified in the agreement or direction. A certificate of service on all parties must be filed with the regional director when the voter list is filed. The employer's failure to file or serve the list within the specified time or in proper format shall be grounds for setting aside the election whenever proper and timely objections are filed. The parties shall not use the list for purposes other than the representation proceeding, Board proceedings arising from it, and related matters.

Waiver of Time to Use Voter List – Under existing NLRB practice, an election is not ordinarily scheduled for a date earlier than 10 calendar days after the date when the employer must file the voter list with the Regional Office. However, the parties entitled to receive the voter list may waive all or part of the 10-day period by executing Form NLRB-4483. A waiver will not be effective unless all parties who are entitled to the list agree to waive the same number of days.

Election – Information about the election, requirements to post and distribute the Notice of Election, and possible proceedings after the election is available from the Regional Office and will be provided to the parties when the Notice of Election is sent to the parties.

Withdrawal or Dismissal – If it is determined that the NLRB does not have jurisdiction or that other criteria for proceeding to an election are not met, the petitioner is offered an opportunity to withdraw the petition. If the petitioner does not withdraw the petition, the regional director will dismiss the petition and advise the petitioner of the reason for the dismissal and of the right to appeal to the Board.

REVIEW THE FOLLOWING IMPORTANT INFORMATION BEFORE FILLING OUT A STATEMENT OF POSITION FORM

Completing and Filing this Form: The Notice of Hearing indicates which parties are responsible for completing the form. If you are required to complete the form, you must have it signed by an authorized representative and file a completed copy (including all attachments) with the RD and serve copies on all parties named in the petition by the date and time established for its submission. If more space is needed for your answers, additional pages may be attached. If you have questions about this form or would like assistance in filling out this form, please contact the Board agent assigned to handle this case. **You must EFile your Statement of Position at www.nlr.gov, but unlike other e-Filed documents, it will *not* be timely if filed on the due date but after noon in the time zone of the Region where the petition was filed.**

Note: Non-employer parties who complete this Statement of Position are NOT required to complete items 8f and 8g of the form, or to provide a commerce questionnaire or the lists described in item 7.

Required Lists: The employer's Statement of Position must include a list of the full names, work locations, shifts, and job classifications of all individuals in the proposed unit as of the payroll period preceding the filing of the petition who remain employed at the time of filing. If the employer contends that the proposed unit is inappropriate, the employer must separately list the full names, work locations, shifts and job classifications of all individuals that it contends must be added to the proposed unit to make it an appropriate unit. The employer must also indicate those individuals, if any, whom it believes must be excluded from the proposed unit to make it an appropriate unit. These lists must be alphabetized (overall or by department). Unless the employer certifies that it does not possess the capacity to produce the lists in the required form, the lists must be in a table in a Microsoft Word file (.doc or .docx) or a file that is compatible with Microsoft Word, the first column of the table must begin with each employee's last name, and the font size of the list must be the equivalent of Times New Roman 10 or larger. That font does not need to be used but the font must be that size or larger. A sample, optional form for the list is provided on the NLRB website at [www.nlr.gov/sites/default/files/attachments/basic-page/node-4559/Optional Forms for Voter List.docx](http://www.nlr.gov/sites/default/files/attachments/basic-page/node-4559/Optional%20Forms%20for%20Voter%20List.docx).

Consequences of Failure to Supply Information: Failure to supply the information requested by this form may preclude you from litigating issues under 102.66(d) of the Board's Rules and Regulations. Section 102.66(d) provides as follows:

A party shall be precluded from raising any issue, presenting any evidence relating to any issue, cross-examining any witness concerning any issue, and presenting argument concerning any issue that the party failed to raise in its timely Statement of Position or to place in dispute in response to another party's Statement of Position or response, except that no party shall be precluded from contesting or presenting evidence relevant to the Board's statutory jurisdiction to process the petition. Nor shall any party be precluded, on the grounds that a voter's eligibility or inclusion was not contested at the pre-election hearing, from challenging the eligibility of any voter during the election. If a party contends that the proposed unit is not appropriate in its Statement of Position but fails to specify the classifications, locations, or other employee groupings that must be added to or excluded from the proposed unit to make it an appropriate unit, the party shall also be precluded from raising any issue as to the appropriateness of the unit, presenting any evidence relating to the appropriateness of the unit, cross-examining any witness concerning the appropriateness of the unit, and presenting argument concerning the appropriateness of the unit. If the employer fails to timely furnish the lists of employees described in §§102.63(b)(1)(iii), (b)(2)(iii), or (b)(3)(iii), the employer shall be precluded from contesting the appropriateness of the proposed unit at any time and from contesting the eligibility or inclusion of any individuals at the pre-election hearing, including by presenting evidence or argument, or by cross-examination of witnesses.

UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD
STATEMENT OF POSITION

DO NOT WRITE IN THIS SPACE

Case No.

04-RD-311366

Date Filed

February 1, 2023

INSTRUCTIONS: Submit this Statement of Position to an NLRB Office in the Region in which the petition was filed and serve it and all attachments on each party named in the petition in this case such that it is received by them by the date and time specified in the notice of hearing.

Note: Non-employer parties who complete this form are NOT required to complete items 8f or 8g below or to provide a commerce questionnaire or the lists described in item 7.

1a. Full name of party filing Statement of Position		1c. Business Phone:	1e. Fax No.:
1b. Address (Street and number, city, state, and ZIP code)		1d. Cell No.:	1f. e-Mail Address
2. Do you agree that the NLRB has jurisdiction over the Employer in this case? <input type="checkbox"/> Yes <input type="checkbox"/> No (A completed commerce questionnaire (Attachment A) must be submitted by the Employer, regardless of whether jurisdiction is admitted)			
3. Do you agree that the proposed unit is appropriate? <input type="checkbox"/> Yes <input type="checkbox"/> No (If not, answer 3a and 3b)			
a. State the basis for your contention that the proposed unit is not appropriate. (If you contend a classification should be excluded or included briefly explain why, such as shares a community of interest or are supervisors or guards)			
b. State any classifications, locations, or other employee groupings that must be added to or excluded from the proposed unit to make it an appropriate unit.			
Added		Excluded	
4. Other than the individuals in classifications listed in 3b, list any individual(s) whose eligibility to vote you intend to contest at the pre-election hearing in this case and the basis for contesting their eligibility.			
5. Is there a bar to conducting an election in this case? <input type="checkbox"/> Yes <input type="checkbox"/> No If yes, state the basis for your position.			
6. Describe all other issues you intend to raise at the pre-election hearing.			
7. The employer must provide the following lists which must be alphabetized (overall or by department) in the format specified at www.nlr.gov/sites/default/files/attachments/basic-page/node-4559/Optional Forms for Voter List.docx . (a) A list containing the full names, work locations, shifts and job classification of all individuals in the proposed unit as of the payroll period immediately preceding the filing of the petition who remain employed as of the date of the filing of the petition. (Attachment B) (b) If the employer contends that the proposed unit is inappropriate the employer must provide (1) a separate list containing the full names, work locations, shifts and job classifications of all individuals that it contends must be added to the proposed unit, if any to make it an appropriate unit, (Attachment C) and (2) a list containing the full names of any individuals it contends must be excluded from the proposed unit to make it an appropriate unit. (Attachment D)			
8a. State your position with respect to the details of any election that may be conducted in this matter. Type: <input type="checkbox"/> Manual <input type="checkbox"/> Mail <input type="checkbox"/> Mixed Manual/Mail			
8b. Date(s)	8c. Time(s)	8d. Location(s)	
8e. Eligibility Period (e.g. special eligibility formula)	8f. Last Payroll Period Ending Date	8g. Length of payroll period <input type="checkbox"/> Weekly <input type="checkbox"/> Biweekly <input type="checkbox"/> Other (specify length)	
9. Representative who will accept service of all papers for purposes of the representation proceeding			
9a. Full name and title of authorized representative		9b. Signature of authorized representative	9c. Date
9d. Address (Street and number, city, state, and ZIP code)			9e. e-Mail Address
9f. Business Phone No.:		9g. Fax No.	9h. Cell No.

WILLFUL FALSE STATEMENTS ON THIS PETITION CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)

PRIVACY ACT STATEMENT

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. Section 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing representation proceedings. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (December 13, 2006). The NLRB will further explain these uses upon request. Failure to supply the information requested by this form may preclude you from litigating issues under 102.66(d) of the Board's Rules and Regulations and may cause the NLRB to refuse to further process a representation case or may cause the NLRB to issue you a subpoena and seek enforcement of the subpoena in federal court.

QUESTIONNAIRE ON COMMERCE INFORMATION

Please read carefully, answer all applicable items, and return to the NLRB Office. If additional space is required, please add a page and identify item number.

CASE NAME	CASE NUMBER 04-RD-311366
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1. EXACT LEGAL TITLE OF ENTITY (As filed with State and/or stated in legal documents forming entity)

2. TYPE OF ENTITY

☐ CORPORATION ☐ LLC ☐ LLP ☐ PARTNERSHIP ☐ SOLE PROPRIETORSHIP ☐ OTHER (Specify)

3. IF A CORPORATION or LLC

A. STATE OF INCORPORATION OR FORMATION	B. NAME, ADDRESS, AND RELATIONSHIP (e.g. parent, subsidiary) OF ALL RELATED ENTITIES
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4. IF AN LLC OR ANY TYPE OF PARTNERSHIP, FULL NAME AND ADDRESS OF ALL MEMBERS OR PARTNERS

5. IF A SOLE PROPRIETORSHIP, FULL NAME AND ADDRESS OF PROPRIETOR

6. BRIEFLY DESCRIBE THE NATURE OF YOUR OPERATIONS (Products handled or manufactured, or nature of services performed).

7A. PRINCIPAL LOCATION:

7B. BRANCH LOCATIONS:

8. NUMBER OF PEOPLE PRESENTLY EMPLOYED

A. TOTAL:

B. AT THE ADDRESS INVOLVED IN THIS MATTER:

9. DURING THE MOST RECENT (Check the appropriate box): ☐ CALENDAR ☐ 12 MONTHS or ☐ FISCAL YEAR (FY DATES _____)

	YES	NO
A. Did you provide services valued in excess of \$50,000 directly to customers outside your State? If no, indicate actual value. \$ _____		
B. If you answered no to 9A, did you provide services valued in excess of \$50,000 to customers in your State who purchased goods valued in excess of \$50,000 from directly outside your State? If no, indicate the value of any such services you provided. \$ _____		
C. If you answered no to 9A and 9B, did you provide services valued in excess of \$50,000 to public utilities, transit systems, newspapers, health care institutions, broadcasting stations, commercial buildings, educational institutions, or retail concerns? If less than \$50,000, indicate amount. \$ _____		
D. Did you sell goods valued in excess of \$50,000 directly to customers located outside your State? If less than \$50,000, indicate amount. \$ _____		
E. If you answered no to 9D, did you sell goods valued in excess of \$50,000 directly to customers located inside your State who purchased other goods valued in excess of \$50,000 from directly outside your State? If less than \$50,000, indicate amount. \$ _____		
F. Did you purchase and receive goods valued in excess of \$50,000 from directly outside your State? If less than \$50,000, indicate amount. \$ _____		
G. Did you purchase and receive goods valued in excess of \$50,000 from enterprises who received the goods directly from points outside your State? If less than \$50,000, indicate amount. \$ _____		
H. Gross Revenues from all sales or performance of services (Check the largest amount) <input type="checkbox"/> \$100,000 <input type="checkbox"/> \$250,000 <input type="checkbox"/> \$500,000 <input type="checkbox"/> \$1,000,000 or more If less than \$100,000, indicate amount.		
I. Did you begin operations within the last 12 months? If yes, specify date: _____		

10. ARE YOU A MEMBER OF AN ASSOCIATION OR OTHER EMPLOYER GROUP THAT ENGAGES IN COLLECTIVE BARGAINING?

☐ YES ☐ NO (If yes, name and address of association or group).

11. REPRESENTATIVE BEST QUALIFIED TO GIVE FURTHER INFORMATION ABOUT YOUR OPERATIONS

NAME	TITLE	E-MAIL ADDRESS	TEL. NUMBER
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12. AUTHORIZED REPRESENTATIVE COMPLETING THIS QUESTIONNAIRE

NAME AND TITLE (Type or Print)	SIGNATURE	E-MAIL ADDRESS	DATE
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PRIVACY ACT STATEMENT

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing representation and/or unfair labor practice proceedings and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary. However, failure to supply the information may cause the NLRB to refuse to process any further a representation or unfair labor practice case, or may cause the NLRB to issue you a subpoena and seek enforcement of the subpoena in federal court.

REVIEW THE FOLLOWING IMPORTANT INFORMATION BEFORE FILLING OUT A RESPONSIVE STATEMENT OF POSITION FORM

Completing and Filing this Form: For **RC and RD petitions**, the Petitioner is required to complete this form in response to each timely filed and served Statement of Position filed by another party. For **RM petitions**, the Employer-Petitioner must complete a Responsive Statement of Position form and submit the list described below. In accordance with Section 102.63(b) of the Board's Rules, if you are required to complete the form, you must have it signed by an authorized representative, and file a completed copy with any necessary attachments, with this office and serve it on all parties named in the petition responding to the issues raised in another party's Statement of Position, such that it is received no later than noon three business days before the date of the hearing. A separate form must be completed for each timely filed and properly served Statement of Position you receive. If more space is needed for your answers, additional pages may be attached. If you have questions about this form or would like assistance in filling out this form, please contact the Board agent assigned to handle this case. **You must E-File your Responsive Statement of Position at www.NLRB.gov, but unlike other e-Filed documents, it will *not* be timely if filed on the due date but after noon in the time zone of the Region where the petition was filed. Note that if you are completing this form as a PDF downloaded from www.NLRB.gov, the form will lock upon signature and no further editing may be made.**

Required List: In addition to responding to the issues raised in another party's Statement of Position, if any, the Employer-Petitioner in an RM case is required to file and serve on the parties a list of the full names, work locations, shifts, and job classifications of all individuals in the proposed unit as of the payroll period preceding the filing of the petition who remain employed at the time of filing. This list must be alphabetized (overall or by department). Unless the employer certifies that it does not possess the capacity to produce the list in the required form, the list must be in a table in a Microsoft Word file (.doc or .docx) or a file that is compatible with Microsoft Word, the first column of the table must begin with each employee's last name, and the font size of the list must be the equivalent of Times New Roman 10 or larger. That font does not need to be used but the font must be that size or larger. A sample, optional form for the list is provided on the NLRB website at www.nlr.gov/sites/default/files/attachments/basic-page/node-4559/Optional Forms for Voter List.docx

Consequences of Failure to Submit a Responsive Statement of Position: Failure to supply the information requested by this form may preclude you from litigating issues under 102.66(d) of the Board's Rules and Regulations. Section 102.66(d) provides as follows:

A party shall be precluded from raising any issue, presenting any evidence relating to any issue, cross-examining any witness concerning any issue, and presenting argument concerning any issue that the party failed to raise in its timely Statement of Position or to place in dispute in response to another party's Statement of Position or response, except that no party shall be precluded from contesting or presenting evidence relevant to the Board's statutory jurisdiction to process the petition. Nor shall any party be precluded, on the grounds that a voter's eligibility or inclusion was not contested at the pre-election hearing, from challenging the eligibility of any voter during the election. If a party contends that the proposed unit is not appropriate in its Statement of Position but fails to specify the classifications, locations, or other employee groupings that must be added to or excluded from the proposed unit to make it an appropriate unit, the party shall also be precluded from raising any issue as to the appropriateness of the unit, presenting any evidence relating to the appropriateness of the unit, cross-examining any witness concerning the appropriateness of the unit, and presenting argument concerning the appropriateness of the unit. If the employer fails to timely furnish the lists of employees described in §§102.63(b)(1)(iii), (b)(2)(iii), or (b)(3)(iii), the employer shall be precluded from contesting the appropriateness of the proposed unit at any time and from contesting the eligibility or inclusion of any individuals at the pre-election hearing, including by presenting evidence or argument, or by cross-examination of witnesses.

UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD
RESPONSIVE STATEMENT OF POSITION – RC, RD or RM PETITION

DO NOT WRITE IN THIS SPACE

Case No.
04-RD-311366

Date Filed
February 1, 2023

INSTRUCTIONS: If a party has submitted and served on you a timely Statement of Position to an RC, RD or RM petition, the Petitioner must submit this Responsive Statement of Position to an NLRB Office in the Region in which the petition was filed and serve it and any attachments on each party named in the petition in this case such that it is received by noon local time, three business days prior to the hearing date specified in the Notice of Hearing. A separate form must be completed for each timely filed and properly served Statement of Position received by the Petitioner. The Petitioner-Employer in a RM case is required to file this Responsive Statement of Position and include an appropriate employee list without regard to whether another party has filed a Statement of Position.

This Responsive Statement of Position is filed by the Petitioner in response to a Statement of Position received from the following party:

The Employer

An Intervenor/Union

1a. Full Name of Party Filing Responsive Statement of Position

1c. Business Phone

1d. Cell No.

1e. Fax No.

1f. E-Mail Address

1b. Address (Street and Number, City, State, and ZIP Code)

2. Identify all issues raised in the other party's Statement of Position that you dispute and describe the basis of your dispute:

a. EMPLOYER NAME/IDENTITY [Box 1a of Statement of Position Form NLRB-505 and Questionnaire on Commerce Information]

☐ No Dispute (no further response required) ☐ Dispute (response required below)

Response to Statement of Position:

b. JURISDICTION [Box 2 of Statement of Position Form NLRB-505 and Questionnaire on Commerce Information]

☐ No Dispute (no further response required) ☐ Dispute (response required below)

Response to Statement of Position:

c. APPROPRIATENESS OF UNIT [Boxes 3, 3a and 3b of Statement of Position Form NLRB-505]

☐ No Dispute (no further response required) ☐ Dispute (response required below)

Response to Statement of Position:

d. INDIVIDUAL ELIGIBILITY [Box 4 of Statement of Position Form NLRB-505]

☐ No Dispute (no further response required) ☐ Dispute (response required below)

Response to Statement of Position:

e. BARS TO ELECTION [Box 5 of Statement of Position Form NLRB-505]

☐ No Dispute (no further response required) ☐ Dispute (response required below)

Response to Statement of Position:

f. ALL OTHER ISSUES [Box 6 of Statement of Position Form NLRB-505]

☐ No Dispute (no further response required) ☐ Dispute (response required below)

Response to Statement of Position:

g. ELECTION DETAILS [Boxes 8a, 8b, 8c, 8d, 8e, 8f, and 8g of Statement of Position Form NLRB-505]

☐ No Dispute (no further response required) ☐ Dispute (response required below)

Response to Statement of Position:

Full Name and Title of Authorized Representative

Signature of Authorized Representative

Date

WILLFUL FALSE STATEMENTS ON THIS PETITION CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001) PRIVACY ACT STATEMENT

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. Section 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing representation proceedings. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. 74942-43 (December 13, 2006). The NLRB will further explain these uses upon request. Failure to supply the information requested by this form may preclude you from litigating issues under 102.66(d) of the Board's Rules and Regulations and may cause the NLRB to refuse to further process a representation case or may cause the NLRB to issue you a subpoena and seek enforcement of the subpoena in federal court.

Please fill all necessary fields on the form PRIOR to digitally signing. To make changes after the form has been signed, right-click on the signature field and click "clear signature." Once complete, please sign the form.

**UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD**

**DESCRIPTION OF VOTER LIST REQUIREMENT AFTER HEARING IN CERTIFICATION AND
DECERTIFICATION CASES**

If an election is directed, the employer must provide the voter list. To be timely filed and served, the voter list must be *received* by the Regional Director and the parties named in the Decision and Direction of Election within 2 business days after the issuance of the Decision unless a longer period, based on extraordinary circumstances, is specified in the Decision and Direction of Election. A certificate of service on all parties must be filed with the Regional Director when the voter list is filed. The region will not serve the voter list.

List Contents - The list must include the full names, work locations, shifts, job classifications, and contact information (including home addresses, available personal email addresses and available home and personal cellular telephone numbers of all eligible voters). The Employer must also include in separate sections of that list the same information for those individuals the parties have agreed will be permitted to vote subject to challenge or those individuals who, according to the Decision and Direction of Election, will be permitted to vote subject to challenge.

List Format - The list must be in an electronic format approved by the General Counsel, unless the Employer certifies that it does not have the capacity to produce the list in the required format. Accordingly, unless otherwise agreed to by the parties, the list must be provided in a table in a Microsoft Word file (.doc or .docx) or a file that is compatible with Microsoft Word (.doc or .docx). The first column of the list must begin with each employee's last name and the list must be alphabetized (overall or by department) by last name. Because the list will be used during the election, the font size of the list must be the equivalent of Times New Roman 10 or larger. That font does not need to be used but the font must be that size or larger. A sample, optional form for the list is provided on the NLRB website at: **[www.nlr.gov/sites/default/files/attachments/basic-page/node-4559/Optional Forms for Voter List.docx](http://www.nlr.gov/sites/default/files/attachments/basic-page/node-4559/Optional%20Forms%20for%20Voter%20List.docx)**.

It may be appropriate for the Employer to produce multiple versions of the list where the data required is kept in separate databases or files so long as all of the lists link the information to the same employees, using the same names, in the same order and are provided within the allotted time. If the Employer provides multiple lists, the list used at the election will be the list containing the employees' names and addresses.

Filing of the List - The voter list must be filed electronically by submitting (E-Filing) it through the Agency's website (www.nlr.gov), unless the Employer provides a written statement explaining why electronic submission is not possible or feasible. The Employer must also electronically serve the list on the other parties. To file electronically, go to www.nlr.gov, click on *E-File Case Documents*, and follow the detailed instructions. The burden of establishing the timely filing and receipt of the list is on the sending party. If you have questions about the submission, please promptly contact the Board agent investigating the petition.

Service of the List - The list must be served on the parties named in the Decision and Direction of Election within 2 business days after issuance of the Decision, unless another date has been specified. A certificate of service on all parties must be filed with the Regional Director when the voter list is filed. The Employer's failure to file or serve the list within the specified time or in proper format shall be grounds for setting aside the election whenever proper and timely objections are filed. The Employer may not object to the failure to file or serve the list within the specified time or in the proper format if it is responsible for the failure.

The parties are not allowed to use the list for purposes other than the representation proceeding, Board proceedings arising from it, and related matters.



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

REGION 4
100 E Penn Square
Suite 403
Philadelphia, PA 19107

Agency Website: www.nlr.gov
Telephone: (215)597-7601
Fax: (215)597-7658



Download
NLRB
Mobile App

February 2, 2023

URGENT

dominic.papa@gfpcement.com

Dominic Papa
GFP Mobile Mix Supply, LLC
14 Hadco Road
Wilmington, DE 19804

Re: GFP Mobile Mix Supply LLC
Case 04-RD-311366

Dear Mr. Papa:

Enclosed is a copy of a petition that Vance Pennington filed with the National Labor Relations Board (NLRB) seeking to decertify IUOE Local 542 as the collective-bargaining representative of certain of your employees. After a petition is filed, the employer is required to promptly take certain actions so please read this letter carefully to make sure you are aware of the employer's obligations. This letter tells you how to contact the Board agent who will be handling this matter, about the requirement to post and distribute the Notice of Petition for Election, the requirement to complete and serve a Statement of Position Form, the Petitioner's requirement to complete and serve a Responsive Statement of Position Form, a scheduled hearing in this matter, other information needed including a voter list, your right to be represented, and NLRB procedures, including how to submit documents to the NLRB.

Investigator: This petition will be investigated by Field Examiner MARY R. LEACH whose telephone number is (215)597-9676. The Board agent will contact you shortly to discuss processing the petition. If you have any questions, please do not hesitate to call the Board agent. If the agent is not available, you may contact Supervisory Attorney PATRICIA A. GARBER whose telephone number is (215)597-7625. The Board agent may also contact you and the other party or parties to schedule a conference meeting or telephonic or video conference for some time before the close of business the day following receipt of the final Responsive Statement(s) of Position. This will give the parties sufficient time to determine if any issues can be resolved prior to hearing or if a hearing is necessary. If appropriate, the NLRB attempts to schedule an election either by agreement of the parties or by holding a hearing and then directing an election.

Required Posting and Distribution of Notice: You must post the enclosed Notice of Petition for Election by **Thursday, February 9, 2023** in conspicuous places, including all places where notices to employees are customarily posted. The Notice of Petition for Election must be

posted so all pages are simultaneously visible. If you customarily communicate electronically with employees in the petitioned-for unit, you must also distribute the notice electronically to them. You must maintain the posting until the petition is dismissed or withdrawn or this notice is replaced by the Notice of Election. Posting and distribution of the Notice of Petition for Election will inform the employees whose representation is at issue and the employer of their rights and obligations under the National Labor Relations Act in the representation context. Failure to post or distribute the notice may be grounds for setting aside an election if proper and timely objections are filed.

Required Statement of Position: In accordance with Section 102.63(b) of the Board's Rules, the employer is required to complete the enclosed Statement of Position form (including the attached Commerce Questionnaire), have it signed by an authorized representative, and file a completed copy (with all required attachments) with this office and serve it on all parties named in the petition such that it is received by them by **noon Eastern Time on Tuesday, February 14, 2023**. This form solicits information that will facilitate entry into election agreements or streamline the pre-election hearing if the parties are unable to enter into an election agreement. **This form must be e-Filed, but unlike other e-Filed documents, will *not* be timely if filed on the due date but after noon Eastern Time.** If you have questions about this form or would like assistance in filling out this form, please contact the Board agent named above.

List(s) of Employees: The employer's Statement of Position must include a list of the full names, work locations, shifts, and job classifications of all individuals in the proposed unit as of the payroll period preceding the filing of the petition who remain employed at the time of filing. If the employer contends that the proposed unit is inappropriate, the employer must separately list the full names, work locations, shifts and job classifications of all individuals that it contends must be added to the proposed unit to make it an appropriate unit. The employer must also indicate those individuals, if any, whom it believes must be excluded from the proposed unit to make it an appropriate unit. These lists must be alphabetized (overall or by department). Unless the employer certifies that it does not possess the capacity to produce the lists in the required form, the lists must be in a table in a Microsoft Word file (.doc or .docx) or a file that is compatible with Microsoft Word, the first column of the table must begin with each employee's last name, and the font size of the list must be the equivalent of Times New Roman 10 or larger. That font does not need to be used but the font must be that size or larger. A sample, optional form for the list is provided on the NLRB website at [www.nlrb.gov/sites/default/files/attachments/basic-page/node-4559/Optional Forms for Voter List.docx](http://www.nlrb.gov/sites/default/files/attachments/basic-page/node-4559/Optional%20Forms%20for%20Voter%20List.docx)

Failure to Supply Information: Failure to supply the information requested by this form may preclude you from litigating issues under Section 102.66(d) of the Board's Rules and Regulations. Section 102.66(d) provides as follows:

A party shall be precluded from raising any issue, presenting any evidence relating to any issue, cross-examining any witness concerning any issue, and presenting argument concerning any issue that the party failed to raise in its timely Statement of Position or to place in dispute in response to another party's

Statement of Position or response, except that no party shall be precluded from contesting or presenting evidence relevant to the Board's statutory jurisdiction to process the petition. Nor shall any party be precluded, on the grounds that a voter's eligibility or inclusion was not contested at the pre-election hearing, from challenging the eligibility of any voter during the election. If a party contends that the proposed unit is not appropriate in its Statement of Position but fails to specify the classifications, locations, or other employee groupings that must be added to or excluded from the proposed unit to make it an appropriate unit, the party shall also be precluded from raising any issue as to the appropriateness of the unit, presenting any evidence relating to the appropriateness of the unit, cross-examining any witness concerning the appropriateness of the unit, and presenting argument concerning the appropriateness of the unit. If the employer fails to timely furnish the lists of employees described in §§ 102.63(b)(1)(iii), (b)(2)(iii), or (b)(3)(iii), the employer shall be precluded from contesting the appropriateness of the proposed unit at any time and from contesting the eligibility or inclusion of any individuals at the pre-election hearing, including by presenting evidence or argument, or by cross-examination of witnesses.

Responsive Statement of Position: In accordance with Section 102.63(b) of the Board's Rules, following timely filing and service of an employer's Statement of Position, the petitioner is required to complete the enclosed Responsive Statement of Position form, have it signed by an authorized representative, and file a completed copy with any necessary attachments, with this office and serve it on all parties named in the petition responding to the issues raised in the employer's Statement of Position, such that it is received no later than **noon Eastern Time on Friday, February 17, 2023.**

Notice of Hearing: Enclosed is a Notice of Representation Hearing to be conducted at **10:00 AM on Thursday, February 23, 2023 by audioconference or videoconference, as appropriate**, if the parties do not voluntarily agree to an election. If a hearing is necessary, the hearing will run on consecutive days until concluded unless the regional director concludes that extraordinary circumstances warrant otherwise. Before the hearing begins, the NLRB will continue to explore potential areas of agreement with the parties in order to reach an election agreement and to eliminate or limit the costs associated with formal hearings.

Upon request of a party showing good cause, the regional director may postpone the hearing. A party desiring a postponement should make the request to the regional director in writing, set forth in detail the grounds for the request, and include the positions of the other parties regarding the postponement. E-Filing the request is required. A copy of the request must be served simultaneously on all the other parties, and that fact must be noted in the request.

Other Information Needed Now: Please submit to this office, as soon as possible, the following information needed to handle this matter:

- (a) A copy of any existing or recently expired collective-bargaining agreements, and any amendments or extensions, or any recognition agreements covering any of your employees in the unit involved in the petition (the petitioned-for unit);
- (b) The name and contact information for any other labor organization (union) claiming to represent any of the employees in the petitioned-for unit;
- (c) If potential voters will need notices or ballots translated into a language other than English, the names of those languages and dialects, if any.
- (d) If you desire a formal check of the showing of interest, you must provide an alphabetized payroll list of employees in the petitioned-for unit, with their job classifications, for the payroll period immediately before the date of this petition. Such a payroll list should be submitted as early as possible prior to the hearing. Ordinarily a formal check of the showing of interest is not performed using the employee list submitted as part of the Statement of Position.

Voter List: If an election is held in this matter, the employer must transmit to this office and to the other parties to the election, an alphabetized list of the full names, work locations, shifts, job classifications, and contact information (including home addresses, available personal email addresses, and available home and personal cellular telephone numbers) of eligible voters. Usually, the list must be furnished within 2 business days of the issuance of the Decision and Direction of Election or approval of an election agreement. I am advising you of this requirement now, so that you will have ample time to prepare this list. The list must be electronically filed with the Region and served electronically on the other parties. To guard against potential abuse, this list may not be used for purposes other than the representation proceeding, NLRB proceedings arising from it or other related matters.

Right to Representation: You have the right to be represented by an attorney or other representative in any proceeding before us. If you choose to be represented, your representative must notify us in writing of this fact as soon as possible by completing Form NLRB-4701, Notice of Appearance. This form is available on our website, www.nlr.gov, or at the Regional office upon your request.

If someone contacts you about representing you in this case, please be assured that no organization or person seeking your business has any “inside knowledge” or favored relationship with the NLRB. Their knowledge regarding this matter was only obtained through access to information that must be made available to any member of the public under the Freedom of Information Act.

Procedures: Pursuant to Section 102.5 of the Board’s Rules and Regulations, parties must submit all documentary evidence, including statements of position, exhibits, sworn statements, and/or other evidence, by electronically submitting (E-Filing) them through the Agency’s web site (www.nlr.gov). You must e-file all documents electronically or provide a written statement explaining why electronic submission is not possible or feasible. Failure to comply with Section 102.5 will result in rejection of your submission. The Region will make its determinations solely based on the documents and evidence properly submitted. All evidence

submitted electronically should be in the form in which it is normally used and maintained in the course of business (i.e., native format). Where evidence submitted electronically is not in native format, it should be submitted in a manner that retains the essential functionality of the native format (i.e., in a machine-readable and searchable electronic format). If you have questions about the submission of evidence or expect to deliver a large quantity of electronic records, please promptly contact the Board agent investigating the petition.

Controlled Unclassified Information (CUI): This National Labor Relations Board (NLRB) proceeding may contain Controlled Unclassified Information (CUI). Subsequent information in this proceeding may also constitute CUI. National Archives and Records Administration (NARA) regulations at 32 CFR Part 2002 apply to all executive branch agencies that designate or handle information that meets the standards for CUI.

* * *

Information about the NLRB and our customer service standards is available on our website, www.nlrb.gov, or from an NLRB office upon your request. We can provide assistance for persons with limited English proficiency or disability. Please let us know if you or any of your witnesses would like such assistance.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Emily DeSa', with a long horizontal line extending to the right.

Emily DeSa
Acting Regional Director

Enclosures

1. Petition
2. Notice of Petition for Election (Form 5492)
3. Notice of Representation Hearing
4. Description of Procedures in Certification and Decertification Cases (Form 4812)
5. Statement of Position form and Commerce Questionnaire (Form 505)
6. Responsive Statement of Position (Form 506)
7. Description of Voter List Requirement after Hearing in Certification and Decertification Cases (Form 5580)



National Labor Relations Board



NOTICE OF PETITION FOR ELECTION

This notice is to inform employees that Vance Pennington has filed a petition with the National Labor Relations Board (NLRB), a Federal agency, in Case 04-RD-311366 seeking an election to determine if the employees of GFP Mobile Mix Supply, LLC in the unit set forth below wish to be represented by IUOE Local 542 for the purposes of collective bargaining:

Included: Ready-Mix Concrete Operators/Drivers

Excluded: All others

This notice also provides you with information about your basic rights under the National Labor Relations Act, the processing of the petition, and rules to keep NLRB elections fair and honest.

YOU HAVE THE RIGHT under Federal Law

- To self-organization
- To form, join, or assist labor organizations
- To bargain collectively through representatives of your own choosing
- To act together for the purposes of collective bargaining or other mutual aid or protection
- To refuse to do any or all of these things unless the union and employer, in a state where such agreements are permitted, enter into a lawful union-security agreement requiring employees to pay periodic dues and initiation fees. Nonmembers who inform the union that they object to the use of their payments for nonrepresentational purposes may be required to pay only their share of the union's costs of representational activities (such as collective bargaining, contract administration, and grievance adjustments).

PROCESSING THIS PETITION

Elections do not necessarily occur in all cases after a petition is filed. **NO FINAL DECISIONS HAVE BEEN MADE YET** regarding the appropriateness of the proposed unit or whether an election will be held in this matter. If appropriate, the NLRB will first see if the parties will enter into an election agreement that specifies the method, date, time, and location of an election and the unit of employees eligible to vote. If the parties do not enter into an election agreement, usually a hearing is held to receive evidence on the appropriateness of the unit and other issues in dispute. After a hearing, an election may be directed by the NLRB, if appropriate.

IF AN ELECTION IS HELD, it will be conducted by the NLRB by secret ballot and Notices of Election will be posted before the election giving complete details for voting.

ELECTION RULES

The NLRB applies rules that are intended to keep its elections fair and honest and that result in a free choice. If agents of any party act in such a way as to interfere with your right to a free election, the election can be set aside by the NLRB. Where appropriate the NLRB provides other remedies, such as reinstatement for employees fired for exercising their rights, including backpay from the party responsible for their discharge.

The following are examples of conduct that interfere with employees' rights and may result in setting aside the election:

- Threatening loss of jobs or benefits by an employer or a union
- Promising or granting promotions, pay raises, or other benefits, to influence an employee's vote by a party capable of carrying out such promises
- An employer firing employees to discourage or encourage union activity or a union causing them to be fired to encourage union activity
- Making campaign speeches to assembled groups of employees on company time, where attendance is mandatory, within the 24-hour period before the polls for the election first open or, if the election is conducted by mail, from the time and date the ballots are scheduled to be sent out by the Region until the time and date set for their return
- Incitement by either an employer or a union of racial or religious prejudice by inflammatory appeals
- Threatening physical force or violence to employees by a union or an employer to influence their votes

Please be assured that IF AN ELECTION IS HELD, every effort will be made to protect your right to a free choice under the law. Improper conduct will not be permitted. All parties are expected to cooperate fully with the NLRB in maintaining basic principles of a fair election as required by law. The NLRB as an agency of the United States Government does not endorse any choice in the election.

For additional information about the processing of petitions, go to www.nlr.gov or contact the NLRB at (215)597-7601.

THIS IS AN OFFICIAL GOVERNMENT NOTICE AND MUST NOT BE DEFACED BY ANYONE. IT MUST REMAIN POSTED WITH ALL PAGES SIMULTANEOUSLY VISIBLE UNTIL REPLACED BY THE NOTICE OF ELECTION OR THE PETITION IS DISMISSED OR WITHDRAWN.



National Labor Relations Board





**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 4**



GFP Mobile Mix Supply, LLC Employer and Vance Pennington Petitioner and IUOE Local 542 Union	Case 04-RD-311366
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NOTICE OF REPRESENTATION HEARING

The Petitioner filed the attached petition pursuant to Section 9(c) of the National Labor Relations Act. It appears that a question affecting commerce exists as to whether the employees in the unit described in the petition wish to be represented by a collective-bargaining representative as defined in Section 9(a) of the Act.


YOU ARE HEREBY NOTIFIED that, pursuant to Sections 3(b) and 9(c) of the Act, at 10:00 AM on **Thursday, February 23, 2023** and on consecutive days thereafter until concluded, **by audioconference or videoconference, as appropriate**, a hearing will be conducted before a hearing officer of the National Labor Relations Board. At the hearing, the parties will have the right to appear in person or otherwise, and give testimony.

YOU ARE FURTHER NOTIFIED that, pursuant to Section 102.63(b) of the Board's Rules and Regulations, GFP Mobile Mix Supply, LLC and IUOE Local 542 must complete the Statement of Position and file it and all attachments with the Regional Director and serve it on the parties listed on the petition such that is received by them by no later than **noon** Eastern time on **Tuesday, February 14, 2023**. Following timely filing and service of a Statement of Position by GFP Mobile Mix Supply, LLC and IUOE Local 542, the Petitioner must complete its Responsive Statement of Position(s) responding to the issues raised in the Employer's and/or Union's Statement of Position and file them and all attachments with the Regional Director and serve them on the parties named in the petition such that they are received by them no later than **noon** Eastern on **Friday, February 17, 2023**.

Pursuant to Section 102.5 of the Board's Rules and Regulations, all documents filed in cases before the Agency must be filed by electronically submitting (E-Filing) through the Agency's website (www.nlrb.gov), unless the party filing the document does not have access to the means for filing electronically or filing electronically would impose an undue burden. Documents filed by means other than E-Filing must be accompanied by a statement explaining

why the filing party does not have access to the means for filing electronically or filing electronically would impose an undue burden. Detailed instructions for using the NLRB's E-Filing system can be found in the [E-Filing System User Guide](#).

The Statement of Position and Responsive Statement of Position must be E-Filed but, unlike other E-Filed documents, must be filed by **noon** Eastern on the due date in order to be timely. If an election agreement is signed by all parties and returned to the Regional Office before the due date of the Statement of Position, the Statement of Position and Responsive Statement of Position are not required to be filed. If an election agreement is signed by all parties and returned to the Regional office after the due date of the Statement of Position but before the due date of the Responsive Statement of Position, the Responsive Statement of Position is not required to be filed.

A handwritten signature in black ink, appearing to read 'Emily DeSa', with a horizontal line extending to the right.

Dated: February 2, 2023

Emily DeSa
Acting Regional Director
National Labor Relations Board
Region 04
100 E Penn Square
Suite 403
Philadelphia, PA 19107

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD**

GFP Mobile Mix Supply, LLC Employer and Vance Pennington Petitioner and IUOE Local 542 Union	Case 04-RD-311366
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AFFIDAVIT OF SERVICE OF: Petition dated February 1, 2023, Notice of Representation Hearing dated February 2, 2023, Description of Procedures in Certification and Decertification Cases (Form NLRB-4812), Notice of Petition for Election, and Statement of Position Form (Form NLRB-505).

I, the undersigned employee of the National Labor Relations Board, being duly sworn, say that on February 2, 2023, I served the above documents by electronic mail and regular mail upon the following persons, addressed to them at the following addresses:

Dominic Papa
GFP Mobile Mix Supply, LLC
14 Hadco Road
Wilmington, DE 19804
dominic.papa@gfpcement.com

Vance Pennington, Ready-Mix Concrete
Operator
162 Garner Drive
Avondale, PA 19311
vpennington88@gmail.com

IUOE Local 542
1375 Virginia Drive
Suite 100
Fort Washington, PA 19034
IUOELocal542@yahoo.com

February 2, 2023

Date

Shanda A Washington,
Designated Agent of NLRB

Name

/s/ Shanda A Washington

Signature

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD

**DESCRIPTION OF REPRESENTATION CASE PROCEDURES
IN CERTIFICATION AND DECERTIFICATION CASES**

The National Labor Relations Act grants employees the right to bargain collectively through representatives of their own choosing and to refrain from such activity. A party may file an RC, RD or RM petition with the National Labor Relations Board (NLRB) to conduct a secret ballot election to determine whether a representative will represent, or continue to represent, a unit of employees. An **RC** petition is generally filed by a union that desires to be certified as the bargaining representative. An **RD** petition is filed by employees who seek to remove the currently recognized union as the bargaining representative. An **RM** petition is filed by an employer who seeks an election because one or more individuals or unions have sought recognition as the bargaining representative, or based on a reasonable belief supported by objective considerations that the currently recognized union has lost its majority status. This form generally describes representation case procedures in RC, RD and RM cases, also referred to as certification and decertification cases.

Right to be Represented – Any party to a case with the NLRB has the right to be represented by an attorney or other representative in any proceeding before the NLRB. A party wishing to have a representative appear on its behalf should have the representative complete a Notice of Appearance (Form NLRB-4701), and E-File it at www.nlr.gov or forward it to the NLRB Regional Office handling the petition as soon as possible.

Filing and Service of Petition – A party filing an RC, RD or RM petition is required to serve a copy of its petition on the parties named in the petition along with this form and the Statement of Position form. The petitioner files the petition with the NLRB, together with (1) a certificate showing service of these documents on the other parties named in the petition, and (2) a showing of interest to support the petition. The showing of interest is not served on the other parties.

Notice of Hearing – After a petition in a certification or decertification case is filed with the NLRB, the NLRB reviews the petition, certificate of service, and the required showing of interest for sufficiency, assigns the petition a case number, and promptly sends letters to the parties notifying them of the Board agent who will be handling the case. In most cases, the letters include a Notice of Representation Hearing. Except in cases presenting unusually complex issues, this pre-election hearing is set for a date 14 business days (excluding weekends and federal holidays) from the date of service of the notice of hearing. Once the hearing begins, it will continue day to day until completed absent extraordinary circumstances. The Notice of Representation Hearing also sets the due date for filing and serving the Statement(s) of Position and the Responsive Statement of Position(s). Included with the Notice of Representation Hearing are the following: (1) copy of the petition, (2) this form, (3) Statement of Position for non-petitioning parties, (4) petitioner's Responsive Statement of Position, (5) Notice of Petition for Election, and (6) letter advising how to contact the Board agent who will be handling the case and discussing those documents.

Hearing Postponement: Requests to postpone the hearing are not routinely granted, but the regional director may postpone the hearing for good cause. A party wishing to request a postponement should make the request in writing and set forth in detail the grounds for the request. The request should include the positions of the other parties regarding the postponement. The request must be filed electronically ("E-Filed") on the Agency's website (www.nlr.gov) by following the instructions on the website. A copy of the request must be served simultaneously on all the other parties, and that fact must be noted in the request.

Statement of Position Form and List(s) of Employees – The Statement of Position form solicits commerce and other information that will facilitate entry into election agreements or streamline the pre-election hearing if the parties are unable to enter into an election agreement. In an **RC** or **RD** case, as part of its Statement of Position form, the employer also provides a list of the full names, work locations, shifts, and job classifications of all individuals in the proposed unit. If the employer contends that the proposed unit is not appropriate, the employer must separately list the same information for all individuals that the employer contends must be added to the proposed unit to make it an appropriate unit, and must further indicate those individuals, if any, whom it believes must be excluded from the proposed unit to make it an appropriate unit. These lists must be alphabetized (overall or by department). Unless the employer certifies that it does not possess the capacity to produce the lists in the required form, the lists must be in a table in a Microsoft Word file (.doc or .docx) or a file that is compatible with Microsoft Word, the first column of the table must begin with each employee's last name, and the font size of the list must be the equivalent of Times New Roman 10 or larger. That font does not need to be used but the font must be that size or larger. A sample, optional

form for the list is provided on the NLRB website at www.nlr.gov/sites/default/files/attachments/basic-page/node-4559/Optional Forms for Voter List.docx

Ordinarily the Statement of Position must be filed with the Regional Office and served on the other parties such that it is received by them by noon 8 business days from the issuance of the Notice of Hearing. The regional director may postpone the due date for filing and serving the Statement of Position for good cause. The Statement of Position form must be E-Filed but, unlike other E-Filed documents, will not be timely if filed on the due date but after noon in the time zone of the Region where the petition is filed. Consequences for failing to satisfy the Statement of Position requirement are discussed on the following page under the heading "Preclusion." A request to postpone the hearing will not automatically be treated as a request for an extension of the Statement of Position due date. If a party wishes to request both a postponement of the hearing and a postponement of the Statement of Position due date, the request must make that clear and must specify the reasons that postponements of both are sought.

Responsive Statement of Position – Petitioner's Responsive Statement(s) of Position solicits a response to the Statement(s) of Position filed by the other parties and further facilitates entry into election agreements or streamlines the preelection hearing. A petitioner must file a Responsive Statement of Position in response to each party's Statement of Position addressing each issue in each Statement of Position(s), if desired. In the case of an RM petition, the employer-petitioner must also provide commerce information and file and serve a list of the full names, work locations, shifts, and job classifications of all individuals in the proposed unit. Ordinarily, the Responsive Statement of Position must be electronically filed with the Regional Office and served on the other parties such that it is received by noon 3 business days prior to the hearing. The regional director may postpone the due date for filing and serving the Responsive Statement of Position for good cause. The Responsive Statement of Position form must be E-Filed but, unlike other E-Filed documents, will not be timely if filed on the due date but after noon in the time zone of the Region where the petition is filed. Consequences for failing to satisfy the Responsive Statement of Position requirement are discussed on the following page under the heading "Preclusion." A request to postpone the hearing will not automatically be treated as a request for an extension of the Responsive Statement of Position due date. If a party wishes to request both a postponement of the hearing and a Postponement of the Responsive Statement of Position due date, the request must make that clear and must specify the reasons that postponements of both are sought.

Posting and Distribution of Notice of Petition for Election – Within 5 business days after service of the notice of hearing, the employer must post the Notice of Petition for Election in conspicuous places, including all places where notices to employees are customarily posted, and must also distribute it electronically to the employees in the petitioned-for unit if the employer customarily communicates with these employees electronically. The employer must maintain the posting until the petition is dismissed or withdrawn, or the Notice of Petition for Election is replaced by the Notice of Election. The employer's failure properly to post or distribute the Notice of Petition for Election may be grounds for setting aside the election if proper and timely objections are filed.

Election Agreements – Elections can occur either by agreement of the parties or by direction of the regional director or the Board. Three types of agreements are available: (1) a Consent Election Agreement (Form NLRB-651); (2) a Stipulated Election Agreement (Form NLRB-652); and (3) a Full Consent Agreement (Form NLRB-5509). In the Consent Election Agreement and the Stipulated Election Agreement, the parties agree on an appropriate unit and the method, date, time, and place of a secret ballot election that will be conducted by an NLRB agent. In the Consent Agreement, the parties also agree that post-election matters (election objections or determinative challenged ballots) will be resolved with finality by the regional director; whereas in the Stipulated Election Agreement, the parties agree that they may request Board review of the regional director's post-election determinations. A Full Consent Agreement provides that the regional director will make final determinations regarding all pre-election and post-election issues.

Hearing Cancellation Based on Agreement of the Parties – The issuance of the Notice of Representation Hearing does not mean that the matter cannot be resolved by agreement of the parties. On the contrary, the NLRB encourages prompt voluntary adjustments and the Board agent assigned to the case will work with the parties to enter into an election agreement, so the parties can avoid the time and expense of participating in a hearing.

Hearing – A hearing will be held unless the parties enter into an election agreement approved by the regional director or the petition is dismissed or withdrawn.

Purpose of Hearing: The primary purpose of a pre-election hearing is to determine if a question of representation exists. A question of representation exists if a proper petition has been filed concerning a unit

appropriate for the purpose of collective bargaining or, in the case of a decertification petition, concerning a unit in which a labor organization has been certified or is being currently recognized by the employer as the bargaining representative.

Issues at Hearing: Issues that might be litigated at the pre-election hearing include: jurisdiction; labor organization status; bars to elections; unit appropriateness; expanding and contracting unit issues; inclusion of professional employees with nonprofessional employees; seasonal operation; potential mixed guard/non-guard unit; and eligibility formulas. At the hearing, the timely filed Statement of Position and Responsive Statement of Position(s) will be received into evidence. The hearing officer will not receive evidence concerning any issue as to which the parties have not taken adverse positions, except for evidence regarding the Board's jurisdiction over the employer and evidence concerning any issue, such as the appropriateness of the proposed unit, as to which the regional director determines that record evidence is necessary.

Preclusion: At the hearing, a party will be precluded from raising any issue, presenting any evidence relating to any issue, cross-examining any witness concerning any issue, and presenting argument concerning any issue that the party failed to raise in its timely Statement of Position or Responsive Statement of Position(s) or to place in dispute in timely response to another party's Statement of Position or response, except that no party will be precluded from contesting or presenting evidence relevant to the Board's statutory jurisdiction to process the petition. Nor shall any party be precluded, on the grounds that a voter's eligibility or inclusion was not contested at the pre-election hearing, from challenging the eligibility of any voter during the election. If a party contends that the proposed unit is not appropriate in its Statement of Position but fails to specify the classifications, locations, or other employee groupings that must be added to or excluded from the proposed unit to make it an appropriate unit, the party shall also be precluded from raising any issue as to the appropriateness of the unit, presenting any evidence relating to the appropriateness of the unit, cross examining any witness concerning the appropriateness of the unit, and presenting argument concerning the appropriateness of the unit. As set forth in §102.66(d) of the Board's rules, if the employer fails to timely furnish the lists of employees, the employer will be precluded from contesting the appropriateness of the proposed unit at any time and from contesting the eligibility or inclusion of any individuals at the pre-election hearing, including by presenting evidence or argument, or by cross-examination of witnesses.

Conduct of Hearing: If held, the hearing is usually open to the public and will be conducted by a hearing officer of the NLRB. Any party has the right to appear at any hearing in person, by counsel, or by other representative, to call, examine, and cross-examine witnesses, and to introduce into the record evidence of the significant facts that support the party's contentions and are relevant to the existence of a question of representation. The hearing officer also has the power to call, examine, and cross-examine witnesses and to introduce into the record documentary and other evidence. Witnesses will be examined orally under oath. The rules of evidence prevailing in courts of law or equity shall not be controlling. Parties appearing at any hearing who have or whose witnesses have disabilities falling within the provisions of Section 504 of the Rehabilitation Act of 1973, as amended, and 29 C.F.R. 100.503, and who in order to participate in this hearing need appropriate auxiliary aids, as defined in 29 C.F.R. 100.503, should notify the regional director as soon as possible and request the necessary assistance.

Official Record: An official reporter will make the only official transcript of the proceedings and all citations in briefs or arguments must refer to the official record. (Copies of exhibits should be supplied to the hearing officer and other parties at the time the exhibit is offered in evidence.) All statements made at the hearing will be recorded by the official reporter while the hearing is on the record. If a party wishes to make off-the-record remarks, requests to make such remarks should be directed to the hearing officer and not to the official reporter. After the close of the hearing, any request for corrections to the record, either by stipulation or motion, should be forwarded to the regional director.

Motions and Objections: All motions must be in writing unless stated orally on the record at the hearing and must briefly state the relief sought and the grounds for the motion. A copy of any motion must be served immediately on the other parties to the proceeding. Motions made during the hearing are filed with the hearing officer. All other motions are filed with the regional director, except that motions made after the transfer of the record to the Board are filed with the Board. If not E-Filed, an original and two copies of written motions shall be filed. Statements of reasons in support of motions or objections should be as concise as possible. Objections shall not be deemed waived by further participation in the hearing. On appropriate request, objections may be permitted to stand to an entire line of questioning. Automatic exceptions will be allowed to all adverse rulings.

Election Details: Prior to the close of the hearing the hearing officer will: (1) solicit the parties' positions (but will not permit litigation) on the type, date(s), time(s), and location(s) of the election and the eligibility period; (2) solicit the name, address, email address, facsimile number, and phone number of the employer's on-site representative to whom the regional director should transmit the Notice of Election if an election is directed; (3) inform the parties that the regional director will issue a decision as soon as practicable and will immediately transmit the document to the parties and their designated representatives by email, facsimile, or by overnight mail (if neither an email address nor facsimile number was provided); and (4) inform the parties of their obligations if the director directs an election and of the time for complying with those obligations.

Oral Argument and Briefs: Upon request, any party is entitled to a reasonable period at the close of the hearing for oral argument, which will be included in the official transcript of the hearing. At any time before the close of the hearing, any party may file a memorandum addressing relevant issues or points of law. Post-hearing briefs shall be due within 5 business days of the close of the hearing. The hearing officer may allow up to 10 additional business days for such briefs prior to the close of hearing and for good cause. If filed, copies of the memorandum or brief shall be served on all other parties to the proceeding and a statement of such service shall be filed with the memorandum or brief. No reply brief may be filed except upon special leave of the regional director. Briefs including electronic documents, filed with the Regional Director must be formatted as double-spaced in an 8½ by 11 inch format and must be e-filed through the Board's website, www.nlr.gov.

Regional Director Decision - After the hearing, the regional director issues a decision directing an election, dismissing the petition or reopening the hearing. A request for review of the regional director's pre-election decision may be filed with the Board at any time after issuance of the decision until 10 business days after a final disposition of the proceeding by the regional director. Accordingly, a party need not file a request for review before the election in order to preserve its right to contest that decision after the election. Instead, a party can wait to see whether the election results have mooted the basis of an appeal. The Board will grant a request for review only where compelling reasons exist therefor.

Voter List – The employer must provide to the regional director and the parties named in the election agreement or direction of election a list of the full names, work locations, shifts, job classifications, and contact information (including home addresses, available personal email addresses, and available home and personal cellular ("cell") telephone numbers) of all eligible voters. (In construction industry elections, unless the parties stipulate to the contrary, also eligible to vote are all employees in the unit who either (1) were employed a total of 30 working days or more within the 12 months preceding the election eligibility date or (2) had some employment in the 12 months preceding the election eligibility date and were employed 45 working days or more within the 24 months immediately preceding the election eligibility date. However, employees meeting either of those criteria who were terminated for cause or who quit voluntarily prior to the completion of the last job for which they were employed, are not eligible.) The employer must also include in a separate section of the voter list the same information for those individuals whom the parties have agreed should be permitted to vote subject to challenge or those individuals who, according to the direction of election, will be permitted to vote subject to challenge. The list of names must be alphabetized (overall or by department) and be in the same Microsoft Word file (or Microsoft Word compatible file) format as the initial lists provided with the Statement of Position form unless the parties agree to a different format or the employer certifies that it does not possess the capacity to produce the list in the required form. When feasible, the list must be filed electronically with the regional director and served electronically on the other parties named in the agreement or direction. To be timely filed and served, the voter list must be received by the regional director and the parties named in the agreement or direction respectively within 2 business days after the approval of the agreement or issuance of the direction of elections unless a longer time is specified in the agreement or direction. A certificate of service on all parties must be filed with the regional director when the voter list is filed. The employer's failure to file or serve the list within the specified time or in proper format shall be grounds for setting aside the election whenever proper and timely objections are filed. The parties shall not use the list for purposes other than the representation proceeding, Board proceedings arising from it, and related matters.

Waiver of Time to Use Voter List – Under existing NLRB practice, an election is not ordinarily scheduled for a date earlier than 10 calendar days after the date when the employer must file the voter list with the Regional Office. However, the parties entitled to receive the voter list may waive all or part of the 10-day period by executing Form NLRB-4483. A waiver will not be effective unless all parties who are entitled to the list agree to waive the same number of days.

Election – Information about the election, requirements to post and distribute the Notice of Election, and possible proceedings after the election is available from the Regional Office and will be provided to the parties when the Notice of Election is sent to the parties.

Withdrawal or Dismissal – If it is determined that the NLRB does not have jurisdiction or that other criteria for proceeding to an election are not met, the petitioner is offered an opportunity to withdraw the petition. If the petitioner does not withdraw the petition, the regional director will dismiss the petition and advise the petitioner of the reason for the dismissal and of the right to appeal to the Board.

REVIEW THE FOLLOWING IMPORTANT INFORMATION BEFORE FILLING OUT A STATEMENT OF POSITION FORM

Completing and Filing this Form: The Notice of Hearing indicates which parties are responsible for completing the form. If you are required to complete the form, you must have it signed by an authorized representative and file a completed copy (including all attachments) with the RD and serve copies on all parties named in the petition by the date and time established for its submission. If more space is needed for your answers, additional pages may be attached. If you have questions about this form or would like assistance in filling out this form, please contact the Board agent assigned to handle this case. **You must EFile your Statement of Position at www.nlrb.gov, but unlike other e-Filed documents, it will *not* be timely if filed on the due date but after noon in the time zone of the Region where the petition was filed.**

Note: *Non-employer parties who complete this Statement of Position are NOT required to complete items 8f and 8g of the form, or to provide a commerce questionnaire or the lists described in item 7.*

Required Lists: The employer's Statement of Position must include a list of the full names, work locations, shifts, and job classifications of all individuals in the proposed unit as of the payroll period preceding the filing of the petition who remain employed at the time of filing. If the employer contends that the proposed unit is inappropriate, the employer must separately list the full names, work locations, shifts and job classifications of all individuals that it contends must be added to the proposed unit to make it an appropriate unit. The employer must also indicate those individuals, if any, whom it believes must be excluded from the proposed unit to make it an appropriate unit. These lists must be alphabetized (overall or by department). Unless the employer certifies that it does not possess the capacity to produce the lists in the required form, the lists must be in a table in a Microsoft Word file (.doc or .docx) or a file that is compatible with Microsoft Word, the first column of the table must begin with each employee's last name, and the font size of the list must be the equivalent of Times New Roman 10 or larger. That font does not need to be used but the font must be that size or larger. A sample, optional form for the list is provided on the NLRB website at [www.nlrb.gov/sites/default/files/attachments/basic-page/node-4559/Optional Forms for Voter List.docx](http://www.nlrb.gov/sites/default/files/attachments/basic-page/node-4559/Optional%20Forms%20for%20Voter%20List.docx).

Consequences of Failure to Supply Information: Failure to supply the information requested by this form may preclude you from litigating issues under 102.66(d) of the Board's Rules and Regulations. Section 102.66(d) provides as follows:

A party shall be precluded from raising any issue, presenting any evidence relating to any issue, cross-examining any witness concerning any issue, and presenting argument concerning any issue that the party failed to raise in its timely Statement of Position or to place in dispute in response to another party's Statement of Position or response, except that no party shall be precluded from contesting or presenting evidence relevant to the Board's statutory jurisdiction to process the petition. Nor shall any party be precluded, on the grounds that a voter's eligibility or inclusion was not contested at the pre-election hearing, from challenging the eligibility of any voter during the election. If a party contends that the proposed unit is not appropriate in its Statement of Position but fails to specify the classifications, locations, or other employee groupings that must be added to or excluded from the proposed unit to make it an appropriate unit, the party shall also be precluded from raising any issue as to the appropriateness of the unit, presenting any evidence relating to the appropriateness of the unit, cross-examining any witness concerning the appropriateness of the unit, and presenting argument concerning the appropriateness of the unit. If the employer fails to timely furnish the lists of employees described in §§102.63(b)(1)(iii), (b)(2)(iii), or (b)(3)(iii), the employer shall be precluded from contesting the appropriateness of the proposed unit at any time and from contesting the eligibility or inclusion of any individuals at the pre-election hearing, including by presenting evidence or argument, or by cross-examination of witnesses.

UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD
STATEMENT OF POSITION

DO NOT WRITE IN THIS SPACE

Case No.

04-RD-311366

Date Filed

February 1, 2023

INSTRUCTIONS: Submit this Statement of Position to an NLRB Office in the Region in which the petition was filed and serve it and all attachments on each party named in the petition in this case such that it is received by them by the date and time specified in the notice of hearing.

Note: Non-employer parties who complete this form are NOT required to complete items 8f or 8g below or to provide a commerce questionnaire or the lists described in item 7.

1a. Full name of party filing Statement of Position		1c. Business Phone:	1e. Fax No.:
1b. Address (Street and number, city, state, and ZIP code)		1d. Cell No.:	1f. e-Mail Address
2. Do you agree that the NLRB has jurisdiction over the Employer in this case? <input type="checkbox"/> Yes <input type="checkbox"/> No (A completed commerce questionnaire (Attachment A) must be submitted by the Employer, regardless of whether jurisdiction is admitted)			
3. Do you agree that the proposed unit is appropriate? <input type="checkbox"/> Yes <input type="checkbox"/> No (If not, answer 3a and 3b)			
a. State the basis for your contention that the proposed unit is not appropriate. (If you contend a classification should be excluded or included briefly explain why, such as shares a community of interest or are supervisors or guards)			
b. State any classifications, locations, or other employee groupings that must be added to or excluded from the proposed unit to make it an appropriate unit.			
Added		Excluded	
4. Other than the individuals in classifications listed in 3b, list any individual(s) whose eligibility to vote you intend to contest at the pre-election hearing in this case and the basis for contesting their eligibility.			
5. Is there a bar to conducting an election in this case? <input type="checkbox"/> Yes <input type="checkbox"/> No If yes, state the basis for your position.			
6. Describe all other issues you intend to raise at the pre-election hearing.			
7. The employer must provide the following lists which must be alphabetized (overall or by department) in the format specified at www.nlr.gov/sites/default/files/attachments/basic-page/node-4559/Optional Forms for Voter List.docx . (a) A list containing the full names, work locations, shifts and job classification of all individuals in the proposed unit as of the payroll period immediately preceding the filing of the petition who remain employed as of the date of the filing of the petition. (Attachment B) (b) If the employer contends that the proposed unit is inappropriate the employer must provide (1) a separate list containing the full names, work locations, shifts and job classifications of all individuals that it contends must be added to the proposed unit, if any to make it an appropriate unit, (Attachment C) and (2) a list containing the full names of any individuals it contends must be excluded from the proposed unit to make it an appropriate unit. (Attachment D)			
8a. State your position with respect to the details of any election that may be conducted in this matter. Type: <input type="checkbox"/> Manual <input type="checkbox"/> Mail <input type="checkbox"/> Mixed Manual/Mail			
8b. Date(s)	8c. Time(s)	8d. Location(s)	
8e. Eligibility Period (e.g. special eligibility formula)	8f. Last Payroll Period Ending Date	8g. Length of payroll period <input type="checkbox"/> Weekly <input type="checkbox"/> Biweekly <input type="checkbox"/> Other (specify length)	
9. Representative who will accept service of all papers for purposes of the representation proceeding			
9a. Full name and title of authorized representative	9b. Signature of authorized representative		9c. Date
9d. Address (Street and number, city, state, and ZIP code)			9e. e-Mail Address
9f. Business Phone No.:		9g. Fax No.	9h. Cell No.

WILLFUL FALSE STATEMENTS ON THIS PETITION CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)

PRIVACY ACT STATEMENT

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. Section 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing representation proceedings. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (December 13, 2006). The NLRB will further explain these uses upon request. Failure to supply the information requested by this form may preclude you from litigating issues under 102.66(d) of the Board's Rules and Regulations and may cause the NLRB to refuse to further process a representation case or may cause the NLRB to issue you a subpoena and seek enforcement of the subpoena in federal court.

QUESTIONNAIRE ON COMMERCE INFORMATION

Please read carefully, answer all applicable items, and return to the NLRB Office. If additional space is required, please add a page and identify item number.

CASE NAME

CASE NUMBER
04-RD-311366

1. EXACT LEGAL TITLE OF ENTITY (As filed with State and/or stated in legal documents forming entity)

2. TYPE OF ENTITY

☐ CORPORATION ☐ LLC ☐ LLP ☐ PARTNERSHIP ☐ SOLE PROPRIETORSHIP ☐ OTHER (Specify)

3. IF A CORPORATION or LLC

A. STATE OF INCORPORATION
OR FORMATION

B. NAME, ADDRESS, AND RELATIONSHIP (e.g. parent, subsidiary) OF ALL RELATED ENTITIES

4. IF AN LLC OR ANY TYPE OF PARTNERSHIP, FULL NAME AND ADDRESS OF ALL MEMBERS OR PARTNERS

5. IF A SOLE PROPRIETORSHIP, FULL NAME AND ADDRESS OF PROPRIETOR

6. BRIEFLY DESCRIBE THE NATURE OF YOUR OPERATIONS (Products handled or manufactured, or nature of services performed).

7A. PRINCIPAL LOCATION:

7B. BRANCH LOCATIONS:

8. NUMBER OF PEOPLE PRESENTLY EMPLOYED

A. TOTAL:

B. AT THE ADDRESS INVOLVED IN THIS MATTER:

9. DURING THE MOST RECENT (Check the appropriate box): ☐ CALENDAR ☐ 12 MONTHS or ☐ FISCAL YEAR (FY DATES _____)

YES

NO

A. Did you provide services valued in excess of \$50,000 directly to customers outside your State? If no, indicate actual value.
\$ _____

B. If you answered no to 9A, did you provide services valued in excess of \$50,000 to customers in your State who purchased goods valued in excess of \$50,000 from directly outside your State? If no, indicate the value of any such services you provided. \$ _____

C. If you answered no to 9A and 9B, did you provide services valued in excess of \$50,000 to public utilities, transit systems, newspapers, health care institutions, broadcasting stations, commercial buildings, educational institutions, or retail concerns? If less than \$50,000, indicate amount. \$ _____

D. Did you sell goods valued in excess of \$50,000 directly to customers located outside your State? If less than \$50,000, indicate amount. \$ _____

E. If you answered no to 9D, did you sell goods valued in excess of \$50,000 directly to customers located inside your State who purchased other goods valued in excess of \$50,000 from directly outside your State? If less than \$50,000, indicate amount. \$ _____

F. Did you purchase and receive goods valued in excess of \$50,000 from directly outside your State? If less than \$50,000, indicate amount. \$ _____

G. Did you purchase and receive goods valued in excess of \$50,000 from enterprises who received the goods directly from points outside your State? If less than \$50,000, indicate amount. \$ _____

H. Gross Revenues from all sales or performance of services (Check the largest amount)

☐ \$100,000 ☐ \$250,000 ☐ \$500,000 ☐ \$1,000,000 or more If less than \$100,000, indicate amount.

I. Did you begin operations within the last 12 months? If yes, specify date: _____

10. ARE YOU A MEMBER OF AN ASSOCIATION OR OTHER EMPLOYER GROUP THAT ENGAGES IN COLLECTIVE BARGAINING?

☐ YES ☐ NO (If yes, name and address of association or group).

11. REPRESENTATIVE BEST QUALIFIED TO GIVE FURTHER INFORMATION ABOUT YOUR OPERATIONS

NAME

TITLE

E-MAIL ADDRESS

TEL. NUMBER

12. AUTHORIZED REPRESENTATIVE COMPLETING THIS QUESTIONNAIRE

NAME AND TITLE (Type or Print)

SIGNATURE

E-MAIL ADDRESS

DATE

PRIVACY ACT STATEMENT

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing representation and/or unfair labor practice proceedings and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary. However, failure to supply the information may cause the NLRB to refuse to process any further a representation or unfair labor practice case, or may cause the NLRB to issue you a subpoena and seek enforcement of the subpoena in federal court.

REVIEW THE FOLLOWING IMPORTANT INFORMATION BEFORE FILLING OUT A RESPONSIVE STATEMENT OF POSITION FORM

Completing and Filing this Form: For **RC and RD petitions**, the Petitioner is required to complete this form in response to each timely filed and served Statement of Position filed by another party. For **RM petitions**, the Employer-Petitioner must complete a Responsive Statement of Position form and submit the list described below. In accordance with Section 102.63(b) of the Board's Rules, if you are required to complete the form, you must have it signed by an authorized representative, and file a completed copy with any necessary attachments, with this office and serve it on all parties named in the petition responding to the issues raised in another party's Statement of Position, such that it is received no later than noon three business days before the date of the hearing. A separate form must be completed for each timely filed and properly served Statement of Position you receive. If more space is needed for your answers, additional pages may be attached. If you have questions about this form or would like assistance in filling out this form, please contact the Board agent assigned to handle this case. **You must E-File your Responsive Statement of Position at www.NLRB.gov, but unlike other e-Filed documents, it will *not* be timely if filed on the due date but after noon in the time zone of the Region where the petition was filed. Note that if you are completing this form as a PDF downloaded from www.NLRB.gov, the form will lock upon signature and no further editing may be made.**

Required List: In addition to responding to the issues raised in another party's Statement of Position, if any, the Employer-Petitioner in an RM case is required to file and serve on the parties a list of the full names, work locations, shifts, and job classifications of all individuals in the proposed unit as of the payroll period preceding the filing of the petition who remain employed at the time of filing. This list must be alphabetized (overall or by department). Unless the employer certifies that it does not possess the capacity to produce the list in the required form, the list must be in a table in a Microsoft Word file (.doc or .docx) or a file that is compatible with Microsoft Word, the first column of the table must begin with each employee's last name, and the font size of the list must be the equivalent of Times New Roman 10 or larger. That font does not need to be used but the font must be that size or larger. A sample, optional form for the list is provided on the NLRB website at [www.nlr.gov/sites/default/files/attachments/basic-page/node-4559/Optional Forms for Voter List.docx](http://www.nlr.gov/sites/default/files/attachments/basic-page/node-4559/Optional%20Forms%20for%20Voter%20List.docx)

Consequences of Failure to Submit a Responsive Statement of Position: Failure to supply the information requested by this form may preclude you from litigating issues under 102.66(d) of the Board's Rules and Regulations. Section 102.66(d) provides as follows:

A party shall be precluded from raising any issue, presenting any evidence relating to any issue, cross-examining any witness concerning any issue, and presenting argument concerning any issue that the party failed to raise in its timely Statement of Position or to place in dispute in response to another party's Statement of Position or response, except that no party shall be precluded from contesting or presenting evidence relevant to the Board's statutory jurisdiction to process the petition. Nor shall any party be precluded, on the grounds that a voter's eligibility or inclusion was not contested at the pre-election hearing, from challenging the eligibility of any voter during the election. If a party contends that the proposed unit is not appropriate in its Statement of Position but fails to specify the classifications, locations, or other employee groupings that must be added to or excluded from the proposed unit to make it an appropriate unit, the party shall also be precluded from raising any issue as to the appropriateness of the unit, presenting any evidence relating to the appropriateness of the unit, cross-examining any witness concerning the appropriateness of the unit, and presenting argument concerning the appropriateness of the unit. If the employer fails to timely furnish the lists of employees described in §§102.63(b)(1)(iii), (b)(2)(iii), or (b)(3)(iii), the employer shall be precluded from contesting the appropriateness of the proposed unit at any time and from contesting the eligibility or inclusion of any individuals at the pre-election hearing, including by presenting evidence or argument, or by cross-examination of witnesses.

UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD
RESPONSIVE STATEMENT OF POSITION – RC, RD or RM PETITION

DO NOT WRITE IN THIS SPACE

Case No.
04-RD-311366

Date Filed
February 1, 2023

INSTRUCTIONS: If a party has submitted and served on you a timely Statement of Position to an RC, RD or RM petition, the Petitioner must submit this Responsive Statement of Position to an NLRB Office in the Region in which the petition was filed and serve it and any attachments on each party named in the petition in this case such that it is received by noon local time, three business days prior to the hearing date specified in the Notice of Hearing. A separate form must be completed for each timely filed and properly served Statement of Position received by the Petitioner. The Petitioner-Employer in a RM case is required to file this Responsive Statement of Position and include an appropriate employee list without regard to whether another party has filed a Statement of Position.

This Responsive Statement of Position is filed by the Petitioner in response to a Statement of Position received from the following party:

The Employer

An Intervenor/Union

1a. Full Name of Party Filing Responsive Statement of Position

1c. Business Phone

1d. Cell No.

1e. Fax No.

1f. E-Mail Address

1b. Address (Street and Number, City, State, and ZIP Code)

2. Identify all issues raised in the other party's Statement of Position that you dispute and describe the basis of your dispute:

a. EMPLOYER NAME/IDENTITY [Box 1a of Statement of Position Form NLRB-505 and Questionnaire on Commerce Information]

☐ No Dispute (no further response required) ☐ Dispute (response required below)

Response to Statement of Position:

b. JURISDICTION [Box 2 of Statement of Position Form NLRB-505 and Questionnaire on Commerce Information]

☐ No Dispute (no further response required) ☐ Dispute (response required below)

Response to Statement of Position:

c. APPROPRIATENESS OF UNIT [Boxes 3, 3a and 3b of Statement of Position Form NLRB-505]

☐ No Dispute (no further response required) ☐ Dispute (response required below)

Response to Statement of Position:

d. INDIVIDUAL ELIGIBILITY [Box 4 of Statement of Position Form NLRB-505]

☐ No Dispute (no further response required) ☐ Dispute (response required below)

Response to Statement of Position:

e. BARS TO ELECTION [Box 5 of Statement of Position Form NLRB-505]

☐ No Dispute (no further response required) ☐ Dispute (response required below)

Response to Statement of Position:

f. ALL OTHER ISSUES [Box 6 of Statement of Position Form NLRB-505]

☐ No Dispute (no further response required) ☐ Dispute (response required below)

Response to Statement of Position:

g. ELECTION DETAILS [Boxes 8a, 8b, 8c, 8d, 8e, 8f, and 8g of Statement of Position Form NLRB-505]

☐ No Dispute (no further response required) ☐ Dispute (response required below)

Response to Statement of Position:

Full Name and Title of Authorized Representative

Signature of Authorized Representative

Date

WILLFUL FALSE STATEMENTS ON THIS PETITION CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001) PRIVACY ACT STATEMENT

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. Section 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing representation proceedings. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. 74942-43 (December 13, 2006). The NLRB will further explain these uses upon request. Failure to supply the information requested by this form may preclude you from litigating issues under 102.66(d) of the Board's Rules and Regulations and may cause the NLRB to refuse to further process a representation case or may cause the NLRB to issue you a subpoena and seek enforcement of the subpoena in federal court.

Please fill all necessary fields on the form PRIOR to digitally signing. To make changes after the form has been signed, right-click on the signature field and click "clear signature." Once complete, please sign the form.

**UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD**

**DESCRIPTION OF VOTER LIST REQUIREMENT AFTER HEARING IN CERTIFICATION AND
DECERTIFICATION CASES**

If an election is directed, the employer must provide the voter list. To be timely filed and served, the voter list must be *received* by the Regional Director and the parties named in the Decision and Direction of Election within 2 business days after the issuance of the Decision unless a longer period, based on extraordinary circumstances, is specified in the Decision and Direction of Election. A certificate of service on all parties must be filed with the Regional Director when the voter list is filed. The region will not serve the voter list.

List Contents - The list must include the full names, work locations, shifts, job classifications, and contact information (including home addresses, available personal email addresses and available home and personal cellular telephone numbers of all eligible voters). The Employer must also include in separate sections of that list the same information for those individuals the parties have agreed will be permitted to vote subject to challenge or those individuals who, according to the Decision and Direction of Election, will be permitted to vote subject to challenge.

List Format - The list must be in an electronic format approved by the General Counsel, unless the Employer certifies that it does not have the capacity to produce the list in the required format. Accordingly, unless otherwise agreed to by the parties, the list must be provided in a table in a Microsoft Word file (.doc or .docx) or a file that is compatible with Microsoft Word (.doc or .docx). The first column of the list must begin with each employee's last name and the list must be alphabetized (overall or by department) by last name. Because the list will be used during the election, the font size of the list must be the equivalent of Times New Roman 10 or larger. That font does not need to be used but the font must be that size or larger. A sample, optional form for the list is provided on the NLRB website at: **[www.nlr.gov/sites/default/files/attachments/basic-page/node-4559/Optional Forms for Voter List.docx](http://www.nlr.gov/sites/default/files/attachments/basic-page/node-4559/Optional%20Forms%20for%20Voter%20List.docx)**.

It may be appropriate for the Employer to produce multiple versions of the list where the data required is kept in separate databases or files so long as all of the lists link the information to the same employees, using the same names, in the same order and are provided within the allotted time. If the Employer provides multiple lists, the list used at the election will be the list containing the employees' names and addresses.

Filing of the List - The voter list must be filed electronically by submitting (E-Filing) it through the Agency's website (www.nlr.gov), unless the Employer provides a written statement explaining why electronic submission is not possible or feasible. The Employer must also electronically serve the list on the other parties. To file electronically, go to www.nlr.gov, click on *E-File Case Documents*, and follow the detailed instructions. The burden of establishing the timely filing and receipt of the list is on the sending party. If you have questions about the submission, please promptly contact the Board agent investigating the petition.

Service of the List - The list must be served on the parties named in the Decision and Direction of Election within 2 business days after issuance of the Decision, unless another date has been specified. A certificate of service on all parties must be filed with the Regional Director when the voter list is filed. The Employer's failure to file or serve the list within the specified time or in proper format shall be grounds for setting aside the election whenever proper and timely objections are filed. The Employer may not object to the failure to file or serve the list within the specified time or in the proper format if it is responsible for the failure.

The parties are not allowed to use the list for purposes other than the representation proceeding, Board proceedings arising from it, and related matters.

NATIONAL LABOR RELATIONS BOARD

NOTICE OF APPEARANCE

Individual	and
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CASE 04-RD-311366

GFP Mobile Mix Supply LLC

☒ REGIONAL DIRECTOR

☐ EXECUTIVE SECRETARY
NATIONAL LABOR RELATIONS BOARD
Washington, DC 20570

☐ GENERAL COUNSEL
NATIONAL LABOR RELATIONS BOARD
Washington, DC 20570

THE UNDERSIGNED HEREBY ENTERS APPEARANCE AS REPRESENTATIVE OF _____
Employer


IN THE ABOVE-CAPTIONED MATTER.

CHECK THE APPROPRIATE BOX(ES) BELOW:

☒ REPRESENTATIVE IS AN ATTORNEY

☒ IF REPRESENTATIVE IS AN ATTORNEY, IN ORDER TO ENSURE THAT THE PARTY MAY RECEIVE COPIES OF CERTAIN DOCUMENTS OR CORRESPONDENCE FROM THE AGENCY IN ADDITION TO THOSE DESCRIBED BELOW, THIS BOX MUST BE CHECKED. IF THIS BOX IS NOT CHECKED, THE PARTY WILL RECEIVE ONLY COPIES OF CERTAIN DOCUMENTS SUCH AS CHARGES, PETITIONS AND FORMAL DOCUMENTS AS DESCRIBED IN SEC. 11842.3 OF THE CASEHANDLING MANUAL.

(REPRESENTATIVE INFORMATION)

NAME: Steven R. Paisner	
MAILING ADDRESS: 851 Duportail Road, 2nd Floor	
Chesterbrook PA	
E-MAIL ADDRESS: srpaisner@paisnerlitvin.com	
OFFICE TELEPHONE NUMBER: 4844362113	
CELL PHONE NUMBER: 2158681279	FAX: 6106683306
SIGNATURE: 	
DATE: Friday, February 3, 2023 11:45 AM Eastern Standard Time	

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NATIONAL LABOR RELATIONS BOARD

NOTICE OF APPEARANCE

GFP Mobile Mix Supply, LLC
Employer

and

Vance Pennington

Petitioner

and

IUOE Local 542

UNION

CASE 04-RD-311366

☒ REGIONAL DIRECTOR

☐ EXECUTIVE SECRETARY
NATIONAL LABOR RELATIONS BOARD
Washington, DC 20570

☐ GENERAL COUNSEL
NATIONAL LABOR RELATIONS BOARD
Washington, DC 20570

THE UNDERSIGNED HEREBY ENTERS APPEARANCE AS REPRESENTATIVE OF _____

IUOE Local 542

IN THE ABOVE-CAPTIONED MATTER.

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(REPRESENTATIVE INFORMATION)

NAME: Regina C. Hertzog, Esquire - Cleary, Josem & Trigiani, LLP

MAILING ADDRESS: 325 Chestnut Street, Suite 200, Philadelphia, PA 19106

E-MAIL ADDRESS: rhertzog@cjlaw.org

OFFICE TELEPHONE NUMBER: (215)735-9099

CELL PHONE NUMBER: _____ FAX: (215)640-3201

SIGNATURE: _____

DATE: _____
(Please sign in ink) 2/3/23

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NATIONAL LABOR RELATIONS BOARD

NOTICE OF APPEARANCE

GFP Mobile Mix Supply, LLC
Individual
and

CASE 04-RD-311366

GFP Mobile Mix Supply LLC

☒ REGIONAL DIRECTOR

☐ EXECUTIVE SECRETARY
NATIONAL LABOR RELATIONS BOARD
Washington, DC 20570

☐ GENERAL COUNSEL
NATIONAL LABOR RELATIONS BOARD
Washington, DC 20570

THE UNDERSIGNED HEREBY ENTERS APPEARANCE AS REPRESENTATIVE OF _____
GFP Mobile Mix Supply LLC

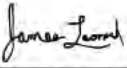
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(REPRESENTATIVE INFORMATION)

NAME: James Alexander Leonard	
MAILING ADDRESS: 851 DuPortail Road, 2nd Floor	
Chesterbrook PA	
E-MAIL ADDRESS: jleonard@paisnerlitvin.com	
OFFICE TELEPHONE NUMBER: 4844362122	
CELL PHONE NUMBER:	FAX: 6106683306
SIGNATURE: 	
DATE: Thursday, February 9, 2023 9:24 AM Eastern Standard Time	

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NATIONAL LABOR RELATIONS BOARD

NOTICE OF APPEARANCE

GFP Mobile Mix Supply, LLC
Individual
and

CASE 04-RD-311366

GFP Mobile Mix Supply LLC

☒ REGIONAL DIRECTOR

☐ EXECUTIVE SECRETARY
NATIONAL LABOR RELATIONS BOARD
Washington, DC 20570

☐ GENERAL COUNSEL
NATIONAL LABOR RELATIONS BOARD
Washington, DC 20570

THE UNDERSIGNED HEREBY ENTERS APPEARANCE AS REPRESENTATIVE OF _____
Vance Pennington, Petitioner


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(REPRESENTATIVE INFORMATION)

NAME: Aaron Solem	
MAILING ADDRESS: 8001 Braddock Road, Suite 600	
Springfield VA	
E-MAIL ADDRESS: abs@nrtw.org	
OFFICE TELEPHONE NUMBER: 7033218510	
CELL PHONE NUMBER:	FAX:
SIGNATURE: 	
DATE: Tuesday, February 21, 2023 11:51 PM Eastern Standard Time	

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Request to Block

_____ is a party to the representation
(Name of Requesting Party)
proceeding in Case _____. It ☒ an unfair labor practice
(Case Number)
charge in Case _____ and hereby requests that the petition be blocked by this charge.
(Case Number)

Signature Date

Name and Title

As required by Section 103.20 of the Board's Rules, the party seeking to block the petition must simultaneously file an offer of proof with the request to block that provides the names of the witnesses who will testify in support of the charge and a summary of each witness's anticipated testimony. The party seeking to block must also promptly make available to the Region the witnesses identified in its offer of proof. The offer of proof is not served on the other parties.

Offer of Proof

Witness Name: _____ (b) (6), (b) (7)(C)
Summary of Testimony: (b) (6), (b) (7)(C), (b) (7)(A)

Witness Name: _____ (b) (6), (b) (7)(C)
Summary of Testimony: (b) (6), (b) (7)(C), (b) (7)(A)

Witness Name: _____ (b) (6), (b) (7)(C)
Summary of Testimony: (b) (6), (b) (7)(C), (b) (7)(A)

Witness Name: (b) (6), (b) (7)(C)

Summary of Testimony: (b) (6), (b) (7)(C), (b) (7)(A)

Witness Name: (b) (6), (b) (7)(C)

Summary of Testimony: (b) (6), (b) (7)(C), (b) (7)(A)

Witness Name: (b) (6), (b) (7)(C)
Summary of Testimony: (b) (6), (b) (7)(C), (b) (7)(A)

Witness Name:
Summary of Testimony:

Witness Name:
Summary of Testimony:

Add a page

ATTACHED LIST OF ADDITIONAL CASES

04-CA-291283

04-CA-291285

04-CA-291287

04-CA-291289

04-CA-291325

04-CA-121361

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 4**

GFP MOBILE MIX SUPPLY, LLC

Employer

and

Case 04-RD-311366

VANCE PENNINGTON

Petitioner

and

IUOE LOCAL 542

Union

ORDER GRANTING UNION'S REQUEST TO BLOCK ELECTION

On February 21, 2023, the Union has filed a written Request to Block the processing of the above-cited petition pending the investigation and resolution of the unfair labor practice charges in Cases 4-CA-291282, 4-CA-291281, 04-CA-291285, 04-CA-291287, 04-CA-291289, 04-CA-291325 and 4-CA-121361. Along with its Request to Block, the Union submitted an offer of proof based on the charges in Cases 04-CA-291282, 4-CA-291283, 04-CA-291285 and 4-CA-291287, filed on February 22 and February 25, 2022 respectively, alleging that the Employer violated Section 8(a)(1) and (3) of the Act by refusing to provide information to the Union and refusing to bargain with the Union.

Accordingly, pursuant to Section 103.20 of the Board's Rules and Regulations,

IT IS ORDERED that the Union's request has been granted and the issuance of a certification in this matter will be held in abeyance pending the disposition of the unfair labor practice charges in Cases 04-CA-291282, 04-CA-291283, 04-CA-291285 and 04-CA-291287.

Right to Request Review: Pursuant to Section 102.71 of the National Labor Relations Board's Rules and Regulations, you may obtain review of this action by filing a request with the Executive Secretary, National Labor Relations Board, 1015 Half Street SE, Washington, DC 20570-0001. The request for review shall be submitted, with a copy filed with the Regional Director, and copies must be served on all the other parties. The request must contain a complete statement setting forth the facts and reasons upon which the request is based.

Procedures for Filing Request for Review: Pursuant to Section 102.5 of the Board's Rules and Regulations, a request for review must be filed by electronically submitting (E-Filing) it through the Agency's web site (www.nlrb.gov), unless the party filing the request for review does not have access to the means for filing electronically or filing electronically would impose an undue burden. A request for review filed by means other than E-Filing must be accompanied by a statement explaining why the filing party does not have access to the means for filing electronically or filing electronically would impose an undue burden. Section 102.5(e) of the Board's Rules do not permit a request for review to be filed by facsimile transmission. A copy of the request for review must be served on each of the other parties to the proceeding, as well as on the undersigned, in accordance with the requirements of the Board's Rules and Regulations. The request for review must comply with the formatting requirements set forth in Section

102.67(i)(1) of the Board's Rules and Regulations. Detailed instructions for using the NLRB's E-Filing system can be found in the E-Filing System User Guide.

A request for review must be received by the Executive Secretary of the Board in Washington, DC, by close of business (5 p.m. Eastern Time) on **March 8, 2023**, unless filed electronically. If filed electronically, it will be considered timely if the transmission of the entire document through the Agency's website is accomplished by no later than 11:59 p.m. Eastern Time on **March 8, 2023**.

Filing a request for review electronically may be accomplished by using the E-Filing system on the Agency's website at www.nlr.gov. Once the website is accessed, click on E-File Documents, enter the NLRB Case Number, and follow the detailed instructions. The responsibility for the receipt of the request for review rests exclusively with the sender. A failure to timely file the request for review will not be excused on the basis that the transmission could not be accomplished because the Agency's website was offline or unavailable for some other reason, absent a determination of technical failure of the site, with notice of such posted on the website.

Upon good cause shown, the Board may grant special permission for a longer period within which to file a request for review. A request for extension of time, which must also be filed electronically, should be submitted to the Executive Secretary in Washington, and a copy of such request for extension of time should be submitted to the Regional Director and to each of the other parties to this proceeding. A request for an extension of time must include a statement that a copy has been served on the Regional Director and on each of the other parties to this proceeding in the same manner or a faster manner as that utilized in filing the request with the Board.

Any party may, within 5 business days after the last day on which the request for review must be filed, file with the Board a statement in opposition to the request for review. An opposition must be filed with the Board in Washington, DC, and a copy filed with the Regional Director and copies served on all the other parties. The opposition must comply with the formatting requirements set forth in §102.67(i)(1). Requests for an extension of time within which to file the opposition shall be filed pursuant to §102.2(c) with the Board in Washington, DC, and a certificate of service shall accompany the requests. The Board may grant or deny the

request for review without awaiting a statement in opposition. No reply to the opposition may be filed except upon special leave of the Board.

Dated: February 22, 2023

/s/ Emily DeSa

Emily DeSa
ACTING REGIONAL DIRECTOR
NATIONAL LABOR RELATIONS BOARD
REGION 04
100 E Penn Square
Suite 403
Philadelphia, PA 19107

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 4**

GFP MOBILE MIX SUPPLY, LLC

Employer

and

Case 04-RD-311366

VANCE PENNINGTON

Petitioner

and

IUOE LOCAL 542

Union

**AFFIDAVIT OF SERVICE OF: Order Granting Union's Request To Block Election,
dated February 22, 2023.**

I, the undersigned employee of the National Labor Relations Board, being duly sworn, say that on February 22, 2023, I served the above-entitled document(s) by **regular and electronic mail** upon the following persons, addressed to them at the following addresses:

dominic.papa@gfpcement.com
Dominic Papa
GFP Mobile Mix Supply, LLC
14 Hadco Road
Wilmington, DE 19804

srpaisner@paisnerlitvin.com
Steven R. Paisner , Esquire
Paisner Litvin, LLP
851 Duportail Road
2nd Floor
Chesterbrook, PA 19087

jleonard@paisnerlitvin.com
James Alexander Leonard , Esquire
Paisner Litvin, LLP
851 DuPortail Road, 2nd Floor
Chesterbrook, PA 19087

vpennington88@gmail.com
Vance Pennington , Ready-Mix Concrete
Operator
162 Garner Drive
Avondale, PA 19311

abs@nrtw.org
Aaron Solem , Staff Attorney
National Right to Work Legal Defense
Foundation, Inc.
8001 Braddock Rd
Suite 600
Springfield, VA 22160-0002

rhertzig@cjtlaw.org
Regina C. Hertzig , Esquire
Cleary Josem & Trigiani, LLP
325 Chestnut Street, Suite 200
Philadelphia, PA 19106-2602

IUOE Local 542
1375 Virginia Drive
Suite 100
Fort Washington, PA 19034

James Kaminski, Designated Agent of
NLRB

Date February 22, 2023

Name

/s/ James Kaminski

Signature

NATIONAL LABOR RELATIONS BOARD

NOTICE OF APPEARANCE

Vance Pennington
and
IUOE Local 542

CASE GFP Mobile Mix 04-RD-311366

☒ REGIONAL DIRECTOR

☐ EXECUTIVE SECRETARY
NATIONAL LABOR RELATIONS BOARD
Washington, DC 20570

☐ GENERAL COUNSEL
NATIONAL LABOR RELATIONS BOARD
Washington, DC 20570

THE UNDERSIGNED HEREBY ENTERS APPEARANCE AS REPRESENTATIVE OF _____

Vance Pennington

IN THE ABOVE-CAPTIONED MATTER.

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(REPRESENTATIVE INFORMATION)

NAME: <u>Byron Andrus</u>	
MAILING ADDRESS: <u>National Right to Work Legal Defense Foundation- 8001 Braddock Rd. Springfield, VA</u> <u>22160</u>	
E-MAIL ADDRESS: <u>bsa@nrtw.org</u>	
OFFICE TELEPHONE NUMBER: <u>(703) 770-3377</u>	
CELL PHONE NUMBER: _____	FAX: _____
SIGNATURE: <u><i>Byron Andrus</i></u> (Please sign in ink.)	
DATE: <u>2/22/23</u>	

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OFFICIAL REPORT OF PROCEEDINGS
BEFORE THE
NATIONAL LABOR RELATIONS BOARD

In the Matter of:

Case No. : 04-RD-311366

GFP Mobile Mix Supply, LLC,

Employer,

and

Vance Pennington,

Petitioner,

And

IUOE Local 542,

Union

Place: Philadelphia, PA (via Zoom)

Dates: February 23, 2023

Pages: 1 through 35

OFFICIAL REPORTERS

BURKE COURT REPORTING, LLC

64 Magnolia Place

Wayne, NJ 07470

(973) 692-0660

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BEFORE THE
NATIONAL LABOR RELATIONS BOARD
-----: Case No.:
In the Matter of: 04-RD-311366
GFP MOBILE MIX, LLC, :
Employer, :
And :
VANCE PENINGTON :
Petitioner :
and :
International Union of :
Operating Engineers, Local 42 :
Union. :
-----:

The above-entitled matter came on for hearing pursuant to
notice, before MARY LEACH, Hearing Officer, at the National
Labor Relations Board, Region 4, via Zoom, on Thursday,
February 23, 2023, at 10:00 a.m.

A P P E A R A N C E S

On Behalf of the Employer:

Leonard James, Esq

Paisner Litvin Houser

851 Duportail Road, 2nd Floor

Chesterbrook, PA 19087

(484) 436-2122

jleonard@paisnerlitvin.com

On Behalf of the Petitioner:

Bryon Andrus, ESQ

National Rate to work legal

8001 Braddock Road

Springfield, Virginia 22160

(703) 321-8510

On Behalf of the Union:

Regina Hertzig

Clearly Josen Triagiani, LLP

325 Chestnut Street, Suite 200

Philadelphia, PA 19106

(215) 735-9099

rhertzig@cjtllaw.com

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I N D E X

WITNESS DIRECT CROSS REDIRECT RECROSS VOIR DIRE
(None.)

1	E X H I B I T S		
2	EXHIBITS	IDENTIFIED	RECEIVED
3	Board's		
4	B-1	7	8
5	B-2	9	9
6	B-3	11	11
7	B-4	12	12/Rejected
8	B-5	13	13
9	B-6	14	14
10			
11	Employer's		
12	(None.)		
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P R O C E E D I N G S

(Time Noted: 10:06 a.m.)

COURT REPORTER: On the record.

HEARING OFFICER LEACH: Okay. Okay. The hearing will be in order. This is a formal hearing in the matter of GFP Mobile Mix Supply, LLC. Case number is 04-RC-31 -- I'm sorry, my mistake. Is 04-RD-311366 before the National Labor Relations Board. Please note that live streaming or recording of this procedure or any part in any fashion is strictly prohibited, including but not limited to audio, video, and screenshots. The hearing officer appearing before the National Labor Relations Board is Mary R. Leach, L-E-A-C-H.

Parties have been informed of the procedures at formal hearings before the Board by service of description of procedures and certification and de-certification cases along with a notice of hearing. Now I would like the parties to introduce themselves, for the Petitioner? Please say your name and your firm and spell your name, please?

MR. ANDRUS: Byron Andrus, B-Y-R-O-N A-N-D-R-U-S for the Petitioner, and I'm with the National Right to Work Legal Defense Foundation.

HEARING OFFICER LEACH: And the Petitioner Vance, can you also state your name and spell your name and introduce yourself as the Petitioner, please?

MR. PENNINGTON: Sure. My name is Vance Pennington.

1 V-A-N-C-E, last name, P-E-N-N-I-N-G-T-O-N.

2 HEARING OFFICER LEACH: And where are you employed?

3 MR. PENNINGTON: GFP Mobile mix.

4 HEARING OFFICER LEACH: And what is your job title,
5 please?

6 MR. PENNINGTON: Driver.

7 HEARING OFFICER LEACH: Okay. All right. For the
8 Employer?

9 MR. LEONARD: Sure. James Leonard, J-A-M-E-S L-E-O-
10 N-A-R-D, with the firm Paisner Litvin. That's spelled P-A-I-S-
11 N-E-R L-I-T-V-I-N.

12 HEARING OFFICER LEACH: Okay. And for the Union?

13 MS. HERTZIG: Regina Hertzig, R-E-G-I-N-A H-E-R-T-Z-
14 I-G, Cleary, C-L-E-A-R-Y, Josen, J-O-S-E-N, Trigiani, T-R-I-G-
15 I-A-N-I.

16 HEARING OFFICER LEACH: Okay. Thank you, everybody.
17 Are there any other appearances? Let the record show no
18 response.

19 Are there any other persons, parties, or Labor organizations in
20 the hearing room who claim an interest in this proceeding? Let
21 the record show no response. So now I will introduce the
22 formal papers, which were emailed to the parties.

23 I hope all the parties got a chance to review them,
24 and I would like to receive them into evidence. So for
25 Petitioner, any objection to receiving the formal papers?

1 MR ANDRUS: No objection.

2 HEARING OFFICER LEACH: Employer?

3 MR. LEONARD: No objection.

4 HEARING OFFICER LEACH: Union?

5 MS. HERTZIG: Yes. Union objects to on -- on number
6 4, Exhibit 4, the Employer's responsive position statement in
7 that -- in --

8 HEARING OFFICER LEACH: Oh, Regina, I'm sorry. The -
9 - so the formal papers are just Board 1.

10 MS. HERTZIG: Okay.

11 HEARING OFFICER LEACH: That's -- that's a little bit
12 later.

13 MS. HERTZIG: Okay.

14 HEARING OFFICER LEACH: That -- that -- the SOPs are
15 not included in that.

16 MS. HERTZIG: Okay. I have no objection to Board 1.

17 HEARING OFFICER LEACH: Okay. Thank you. So the
18 formal papers are received.

19 (Board Exhibit 1 is received.)

20 HEARING OFFICER LEACH: Are there any motions to
21 intervene in these proceedings to be submitted to the hearing
22 officer for ruling by the Regional Director? Let the record
23 show no response. Are there any pre-hearing motions made by
24 any party that need to be addressed at this time? Let the
25 record show no response.

1 MS. HERTZIG: I'm -- I'm asking --

2 HEARING OFFICER LEACH: Oh, I'm sorry.

3 MS. HERTZIG: Yes.

4 HEARING OFFICER LEACH: Oh, I'm sorry. I apologize.
5 What is that?

6 MS. HERTZIG: Yes. But I'm -- I'm making a motion
7 that the -- a petition be dismissed based on the voluminous and
8 egregious unfair legal practice charges that are -- that are
9 pending, that the region has already found. There are two,
10 including five discharges, I'm sorry, four discharges. Based
11 on you know, violation of the section 7 rights of those four
12 individual employees. We believe that the petition should be
13 dismissed.

14 HEARING OFFICER LEACH: I believe that would be
15 referred to the Regional Director, but if you would just give
16 me a moment. Can we go off the record?

17 MS. HERTZIG: Yes.

18 COURT REPORTER: Off the record.

19 (Brief Recess at 10:11 a.m./ Reconvened at 10:19 a.m.)

20 COURT REPORTER: On the record.

21 HEARING OFFICER LEACH: Okay. When we went off the
22 record, the Union asked for dismissal of the petition, and I
23 will refer that to the Regional Director whenever -- and that
24 will be decided when the entire record is considered. So that
25 will be referred to the Regional Director.

1 MS. HERTZIG: Thank you.

2 HEARING OFFICER LEACH: You're welcome. Okay. So we
3 will continue moving forward to Board Exhibit 2. I believe all
4 parties have reason -- looked at Board Exhibit 2, and signed
5 it. I just want to make sure there's no objection to receiving
6 that into evidence. Any objection from the Petitioner?

7 MR. ANDRUS: No objection.

8 HEARING OFFICER LEACH: Employer?

9 MR. LEONARD: No objection.

10 HEARING OFFICER LEACH: Union?

11 MS. HERTZIG: No objection.

12 HEARING OFFICER LEACH: Okay. Board Exhibit 2 is
13 received.

14 (Board Exhibit 2 is received.)

15 HEARING OFFICER LEACH: Just give me one moment, please.
16 Okay. Are there any petitions pending in other regional
17 offices involving other facilities of the Employer?

18 MR. LEONARD: No.

19 HEARING OFFICER LEACH: Does anybody -- No? Okay.
20 Who -- who was speaking, please?

21 MR. LEONARD: Sorry. That's James Leonard.

22 HEARING OFFICER LEACH: Okay. And I'm guessing the
23 Employer and Union agree with that?

24 MS. HERTZIG: We are not aware of any.

25 HEARING OFFICER LEACH: Okay. Thank you. So I have

1 some reminders. The parties are reminded that prior to the
2 close of hearing, the hearing officer will solicit the party's
3 positions on election details, including the type, mail, or
4 manual, best days of the week, times and locations for
5 conducting -- conducting an election. Any days which an
6 election could not occur, including the reason, where and how
7 to conduct the count of ballots and the eligibility period, the
8 most recent payroll period, date, and frequency, but we'll not
9 permit litigation of these issues.

10 The hearing officer will also inquire as to the need
11 for foreign language ballots and notices of election, and the
12 proposed number of observers for each party, for each polling
13 period, including the reason. Please have relevant information
14 ready with respect to these issues.

15 Also for the Employer, I'm going to need the contact
16 information for your on-site representative, that would be that
17 person's name, physical address. If their address is the
18 facility, that's fine. Their email address I'm sorry their --
19 I need their job title, their email address, and phone number,
20 please. We need to put that into the record so that whenever
21 the DDE issues, we know how to serve the Employer with the
22 documents.

23 The parties have been advised that the hearing will
24 continue from day to day as necessary until completed unless
25 the Regional Director concludes the extraordinary circumstances

1 weren't otherwise. The parties are also advised that upon
2 request any party is entitled to a reasonable period at the
3 close of hearing for or argument, which shall be included in
4 the transcript of the hearing. Any party desiring to submit a
5 brief shall be entitled to do so within five business days
6 after the close of hearing.

7 Prior to the close of hearing and for good cause, the
8 hearing officer may grant an extension of time to file a brief
9 not to exceed an additional 10 business days. So now we will
10 talk about out the SOP documents. Per the email that I sent to
11 the parties, we will move on to Board Exhibit 3, which is the
12 Union SOP document. Is there any objection from the Petitioner
13 for Board -- admitting Board Exhibit 3?

14 MR. ANDRUS: No objection.

15 HEARING OFFICER LEACH: Any exit -- any objection
16 from the Employer?

17 MR. LEONARD: No objection.

18 HEARING OFFICER LEACH: Okay. Board Exhibit 3 is
19 received, and that is the Union SOP.

20 (Board Exhibit 3 is received.)

21 HEARING OFFICER LEACH: So now we would move on to
22 Board Exhibit 4, which is the Employer SOP. Is there any
23 objection from the Petitioner to admitting that into the
24 record?

25 MR. ANDRUS: No objection.

1 HEARING OFFICER LEACH: Okay. Any objection from the
2 Union?

3 MS. HERTZIG: Yes.

4 HEARING OFFICER LEACH: Okay.

5 MS. HERTZIG: The Union objects on that -- that it
6 was not properly served on the Union.

7 HEARING OFFICER LEACH: Okay. I will at this time
8 take the time to note into the record that the email that I --
9 the board agent sent an email to the parties with everyone's
10 email address on it, and I wrote the wrong email address us for
11 the Union attorney, Regina Hertzig. So I just wanted to be
12 sure that that was reflected in the record and that the
13 Employer used that email address -- email address to send out
14 the SOP.

15 What the region has decided concerning this matter,
16 the record will note the Union's objections, and the Employer's
17 SOP will be put in to the rejected Exhibits folder. So that's
18 where Exhibit number 4 will be placed. I'm going to move on to
19 Board Exhibit number 5.

20 (Board Exhibit B-4 rejected)

21 MS. HERTZIG: Excuse me.

22 HEARING OFFICER LEACH: Yes.

23 MS. HERTZIG: I just have something else for the
24 record.

25 HEARING OFFICER LEACH: Yes.

1 MS. HERTZIG: For an examiner. I just want to make
2 it clear that, Mr. Leonard's office, his senior partner, Mr.
3 Paisner, has dealt with me on a number of -- of matters over
4 the years and has emailed me at the correct email address.

5 HEARING OFFICER LEACH: Okay. Thank you. Regarding
6 -- okay. Board Exhibit 5, which is the Petitioner RSOP
7 documents, for the Union, is there any objection to receiving
8 these into evidence?

9 MS. HERTZIG: No.

10 HEARING OFFICER LEACH: Okay. And for the Employer,
11 any objection?

12 MR. LEONARD: No objection.

13 HEARING OFFICER LEACH: Okay. Board Exhibit 5 is
14 received. That is the Petitioner RSOP documents.

15 (Board Exhibit 5 is received.)

16 HEARING OFFICER LEACH: And my final board exhibit is
17 Board Exhibit 6, which is the certification of representative
18 from the related RC petition 04RC286591. Is there any
19 objection from the Petitioner in receiving this into evidence?

20 MR. ANDRUS: No objection.

21 HEARING OFFICER LEACH: From the Union?

22 MS. HERTZIG: No.

23 HEARING OFFICER LEACH: From the Employer?

24 MR. LEONARD: No objection.

25 HEARING OFFICER LEACH: Okay. Board Exhibit 6 is

1 received into evidence.

2 (Board Exhibit 6 received.)

3 HEARING OFFICER LEACH: Just give me one moment
4 please. The eligibility formula as stated is full time and
5 regular part time. Do we need any additional eligibility
6 formulas like Davis and Parkson. Is that something that the
7 parties -- did you have that last time with the RSC petition?

8 MS. HERTZIG: No.

9 HEARING OFFICER LEACH: For the --

10 MS. HERTZIG: We didn't -- we didn't have it.

11 HEARING OFFICER LEACH: Okay. Employer, do you think
12 we need any additional eligibility formulas?

13 MR. LEONARD: No. I don't think so.

14 HEARING OFFICER LEACH: Okay. For the Petitioner?

15 MR. ANDRUS: No. I don't believe so.

16 HEARING OFFICER LEACH: Okay -- Okay. So at this
17 time, I think the parties understand that, you know, we -- we
18 don't have any other issues to discuss at this time, does the
19 Employer want to present any documents or any other evidence?
20 Well -- well, let me just say -- let me just ask you, do you
21 want to present any documents?

22 MR. LEONARD: No.

23 HEARING OFFICER LEACH: Does the Union want to
24 present any documents?

25 MS. HERTZIG: No documents.

1 HEARING OFFICER LEACH: Does the Petitioner want to
2 present any documents?

3 MR. ANDRUS: No, we do not.

4 HEARING OFFICER LEACH: Okay. What I would like to
5 do, though, is allow the parties if you wish to, you know, you
6 can have an opening statement on, you know, what your position
7 is. I mean, at this point, we don't have issues to discuss.
8 The main reason that we're here is because we were you know,
9 the parties were unable to agree to a stipulated election
10 agreement, so we had to move forward to a hearing.

11 But I would like the parties, you know, if you'd like
12 to to say a short -- if you'd like to have a short introduction
13 or opening statement, that's fine. Just for -- for it to be in
14 the record. Is the -- the Union, would you like to go first?

15 MS. HERTZIG: Yes, please. Thank you.

16 HEARING OFFICER LEACH: Okay.

17 MS. HERTZIG: Our position is that this -- this --
18 that this petition should be dismissed based on the
19 overwhelming number of unfair labor practices, and how
20 egregious those unfair legal practice are. We've already had
21 merit determinations on a number of them including all
22 discharges. There is no way in the world that this petition
23 has not been tainted by those unfair legal practices. And
24 therefore, you know, we hope that you'll do a speedy
25 investigation on the factors necessary so that the region can

1 dismiss this petition. Thank you.

2 HEARING OFFICER LEACH: Okay. The Petitioner, would
3 you like to say, you know, have a -- a opening statement?

4 MR. ANDRUS: Sure. It's the Petitioners
5 understanding that the vast majority of the ULPs were filed
6 even before the RC election, and that election was allowed
7 proceed. We thus believe that the ULPs do not taint the
8 present petition and that the employees should be allowed to
9 have their voice heard as to whether they wish to be
10 represented by this Union.

11 HEARING OFFICER LEACH: Okay. And for the Employer?

12 MR. LEONARD: It is the Employer's position that
13 these ULP's were filed or at least concerned activity that took
14 place prior to the certification of the RC election that took
15 place over a year ago. Considering the remoteness in time, we
16 do not believe that there is any reason not to proceed with an
17 election in this case, and we should let the employees to
18 decide whether or not they want to be represented by this
19 Union.

20 HEARING OFFICER LEACH: Okay. Thank you very much.
21 Just give me one moment, please. Besides what you said, does
22 the Union have any other evidence to present?

23 MS. HERTZIG: Just -- just to clarify the record that
24 all of the unfair legal practice charges were filed and were
25 filed after certification. So those discharges to take place

1 after certification of the unit. But the record will reflect
2 that. The -- the -- the record in terms of the -- the
3 voluminous number of unfair legal practice charges where a
4 merit was found would reflect that the dates of them were post
5 certification.

6 HEARING OFFICER LEACH: Okay. Does the Petitioner
7 have any other evidence you'd like to add?

8 MR. ANDRUS: No.

9 HEARING OFFICER LEACH: Does the Employer?

10 MR. LEONARD: No.

11 HEARING OFFICER LEACH: Okay. So now I'm going to
12 move on to the election details. I'm just going to pull out my
13 phone so I can look at a calendar. Okay. Give one moment.
14 Regarding the voter list, does the -- so since we have two
15 parties that received the voter list. It's the Union and the
16 Petitioner. If the parties would like to waive any days, but
17 you both have to agree to that. Otherwise, you would get the
18 voter list and you would keep it for the entire 10 days. So
19 does the Union wish to waive any days?

20 MS. HERTZIG: No. It does not.

21 HEARING OFFICER LEACH: Does the Petitioner wish to
22 waive any days?

23 MR. ANDRUS: Given the Union's response, no.

24 HEARING OFFICER LEACH: Okay -- okay. So let's talk
25 about the method of election, are the parties agreeable to an

1 in person election? For the Union?

2 MS. HERTZIG: No.

3 HEARING OFFICER LEACH: Okay. One moment. So the
4 Union wants mail?

5 MS. HERTZIG: Correct.

6 HEARING OFFICER LEACH: For the Employer?

7 MR. LEONARD: The Union -- sorry. The Employer would
8 like a manual election.

9 HEARING OFFICER LEACH: Okay. Petitioner?

10 MR. ANDRUS: Manual election.

11 HEARING OFFICER LEACH: Okay. Why does the Union
12 request a mail ballot?

13 MS. HERTZIG: Union's requesting a mail ballot,
14 again, given the egregious unfair labor practice, that has been
15 committed, and that the discriminatees would be required to
16 enter the Employer's facility to be able to cast their votes as
17 -- as challengers would be a -- a burden on them. And in -- in
18 the alternative, we would like a public place for them to be
19 able to -- to vote. For the election to be held at the library
20 or firehouse near the Employer's facility. So that they will -
21 - these discriminatees do not have to enter the Employer's
22 facility.

23 HEARING OFFICER LEACH: Do you have a location in
24 mind, specific address for me?

25 MS. HERTZIG: There's a library -- there's a library

1 nearby. If you give me a second, I can look up the address,
2 but you can --

3 HEARING OFFICER LEACH: Okay.

4 MS. HERTZIG: It's in North Wilmington branch of the
5 public library.

6 HEARING OFFICER LEACH: Okay. Yes. If you could get
7 the address and you also said, is there a firehouse a specific
8 one nearby?

9 MS. HERTZIG: Let -- let me find out. Okay. Regina,
10 you're muted. I'm not sure if that's on purpose.

11 MS. HERTZIG: Well, I'm -- I'm trying to look up an
12 address. So if you want to go on.

13 HEARING OFFICER LEACH: Okay. Got you.

14 MS. HERTZIG: The other parties, Mary?

15 HEARING OFFICER LEACH: Okay. No. No problem.

16 Okay. Yeah. So let me move forward. For the Employer, I know
17 you mentioned in person, do you have any specific objection to
18 a mail ballot? And if so, could you state why?

19 MR. LEONARD: We believe that a manual ballot is the
20 best way to effectuate employee choice. We believe that it is
21 vastly more convenient and more timely for all employees
22 involved.

23 HEARING OFFICER LEACH: And for the Petitioner?

24 MR. ANDRUS: I -- I -- I would echo that, and I would
25 just say it's always been the board's strong preference to

1 conduct manual elections. So we prefer manual.

2 HEARING OFFICER LEACH: Okay -- Okay. So while we're
3 -- while Regina is still looking for that information. For the
4 Employer, as far as it -- can you provide the that's time to
5 vote?

6 MR. LEONARD: Yes. It is our position that voting
7 should take place from 03:30 p.m. to 4:30 p.m. That is
8 typically when employees have finished their shifts or coming
9 back at the end of the day.

10 Specifically, the Employer does not want to have an election in
11 the morning before shifts because the way that the the Employer
12 is set up, the way that they -- they do business, mornings are
13 oftentimes all hands-on deck situations where any disruption to
14 operations could lead to delays in getting trucks out on the
15 road which leads to delays in -- in delivering the concrete
16 that they are, you know, supposed to provide to their
17 customers. Which could impact customer relations and get at
18 really the heart of the business?

19 HEARING OFFICER LEACH: So everybody who is the --
20 all of the I guess, the current employees, they're back at the
21 facility between 3:30, and 04:30?

22 MR. LEONARD: Yes.

23 HEARING OFFICER LEACH: Okay. What's the Petitioners
24 position on the time --

25 MR. ANDRUS: We agree with the Employer's position.

1 HEARING OFFICER LEACH: Okay.

2 MR. ANDRUS: The position the Employer stated.

3 HEARING OFFICER LEACH: Okay. Back to the Employer
4 location for the election on -- on-site?

5 MR. LEONARD: Yes. We believe the election should be
6 held at the facility at 14 Hadco Road.

7 HEARING OFFICER LEACH: What room?

8 MR. LEONARD: The location is -- is a large warehouse
9 that we can carve a section out of if necessary necessary.
10 There's also a lunch room in the facility that we could use.

11 HEARING OFFICER LEACH: Is the warehouse in use or is
12 it empty between 03:30 and 04:30?

13 MR. LEONARD: Well, I mean, there -- there is a
14 opportunity to provide a private space in the warehouse.

15 HEARING OFFICER LEACH: And the lunch room, is that
16 empty between 03:30 and 04:30?

17 MR. LEONARD: Yes.

18 HEARING OFFICER LEACH: As far as spacing, is there
19 enough room in there? Does the lunchroom have two doors, one
20 in, one out?

21 MR. LEONARD: I'm not sure.

22 HEARING OFFICER LEACH: Okay. Maybe I can ask the
23 Petitioner to speak to this under lunchroom? You've been in
24 there before, right?

25 MR. PENINGTON: It does not have two rooms or two

1 doors.

2 HEARING OFFICER LEACH: What about the size of it?
3 How many I guess, you know, those long tables, I guess, they're
4 6-foot tables. How many tables could fit inside?

5 MR. PENINGTON: Comfortably one.

6 HEARING OFFICER LEACH: So this is a small space?

7 MR. ANDRUS: The lunchroom, the warehouse, like --
8 like James said, we can carve out a section that can be
9 private.

10 HEARING OFFICER LEACH: When you say carve out a
11 section in the warehouse, are you saying that -- is there some
12 sort of partition that you would have to put up?

13 MR. LEONARD: Yes. Like a temporary --

14 MR. PENINGTON: If necessary.

15 HEARING OFFICER LEACH: Okay. If you give me one
16 moment, I can look and see where --

17 MS. HERTZIG: I just I have --

18 HEARING OFFICER LEACH: Where the election was last
19 time.

20 MS. HERTZIG: Okay. It was -- It was by mail ballot
21 Mary the last time.

22 HEARING OFFICER LEACH: Oh, that's right. I you --
23 that's correct. Okay. I'm sorry. Okay. I wasn't -- I didn't
24 forget about you though, Regina. I was just kind of going
25 through this while you figured out the locations.

1 MS. HERTZIG: Okay.

2 HEARING OFFICER LEACH: Okay. So right now, the
3 location is either the warehouse where some sort of partition
4 would have to be put up -- the lunch -- or the lunchroom, which
5 is sounds like a -- a pretty small area if only one table would
6 be with it inside. If we -- I'm asking these kind of questions
7 because of the -- the COVID memo that we're still going by. So
8 --

9 MR. PENINGTON: Now, Mary --

10 HEARING OFFICER LEACH: -- you know, the Regional
11 Director has that information. Yes.

12 MR. PENINGTON: Mary, I'm referring to the lunch room
13 that -- that I eat lunch, and that does not have two doors.
14 The lunch room upstairs that has two doors and is much larger.
15 So I'm not sure what -- what lunchroom the Employer is
16 referring to.

17 HEARING OFFICER LEACH: Do we know which one you were
18 referring to, James?

19 MR. LEONARD: I -- I was not aware of the jist of a -
20 - a second lunch room. But, I mean, if we have access to a
21 larger lunch room that has two doors and can fit more tables
22 out, that extremely would be more easier.

23 HEARING OFFICER LEACH: Vance, is that lunch room --
24 is that an employee lunchroom or is that a management lunchroom
25 who --

1 MR. PENINGTON: They conduct meetings in that
2 conference slash lunch area. And that I believe has ten, six-
3 foot tables in it, maybe more.

4 HEARING OFFICER LEACH: And what do you call that?
5 The -- the lunch room on the second floor?

6 MR. PENINGTON: Yeah. I -- I mean, I would refer to
7 it as the conference room but it is a lunch room for other
8 office staff.

9 HEARING OFFICER LEACH: Got you. So it's a
10 conference room. Do you know are there any supervisor or a
11 manager -- manager offices near that room?

12 MR. PENINGTON: Across the hall.

13 HEARING OFFICER LEACH: Okay.

14 MR. PENINGTON: I think she's HR.

15 HEARING OFFICER LEACH: Okay. So the -- the
16 potential locations, warehouse, and the -- the -- the
17 warehouse, the small -- I'm sorry. Just so I'm clear, the
18 smaller lunch room, where is that located?

19 MR. PENINGTON: It's located in our shop area.

20 HEARING OFFICER LEACH: Is that in the work -- in the
21 warehouse?

22 MR. PENINGTON: In the warehouse. Yes.

23 HEARING OFFICER LEACH: And then we have the room
24 upstairs, which it sounds like is really a conference room?

25 MR. PENINGTON: Correct.

1 HEARING OFFICER LEACH: Okay. For the Petitioner, do
2 you have any oh, I'm sorry. You were talking. I apologize.
3 So I'm sorry. So I kind of I get split back and forth between
4 the Employer and the Petitioner. But is it safe to say that
5 the Employer would be okay with either of these -- either three
6 locations?

7 MR. LEONARD: Yes.

8 HEARING OFFICER LEACH: Okay. Now I'm going to go
9 back to the Union, and I'm going to ask about the address for
10 the library?

11 MS. HERTZIG: Okay. So the it's called the Elsmere
12 E-L-S-M-E-R-E library 30 spruce Avenue, Wilmington. It's seven
13 minutes from the facility. Or the 5 Points Fire Company 209
14 South North Avenue, Wilmington. And for the record, in terms
15 of the -- there's another company that also operates out of
16 that same warehouse. So the warehouse facility would not be
17 appropriate. And certainly, the room that -- the room across
18 the HR director's office, also is not appropriate for -- to
19 hold an election.

20 MR. PENINGTON: I'd just like to add just a --

21 HEARING OFFICER LEACH: Just -- just give me one --
22 okay. Just give me one moment, please. So that --

23 MR. PENINGTON: operating warehouse.

24 HEARING OFFICER LEACH: One moment. Regina, what is
25 the company that you're talking about that uses the warehouse?

1 MR. PENINGTON: I think concrete.

2 MS. HERTZIG: We believe the name of the company is
3 called GFP Concrete.

4 HEARING OFFICER LEACH: I mean, can -- James, can you
5 speak to this? Or -- oh, go ahead. Sorry.

6 MR. LEONARD: Well, there's -- there's a company, I
7 believe, they're called GFP cement, maybe not concrete but
8 regardless they are a obviously, a related company to GFP
9 mobile mix. There is in terms of -- in terms of any conflict
10 with using the space, there -- there is none.

11 HEARING OFFICER LEACH: So would that space be able
12 to they would, I guess, they would either be gone or that would
13 be -- there would be some sort of partitioned off space.

14 MR. LEONARD: Correct.

15 HEARING OFFICER LEACH: Okay. All right. I'm sorry.
16 Vance, did you have something you -- you wanted to add?

17 MR. PENINGTON: Yes, Mary. GFP cement contractors
18 had moved locations. They no longer operate in the same
19 warehouse.

20 HEARING OFFICER LEACH: Okay. Okay. So then there
21 you -- Regina, you said the conference room across from HR is
22 not appropriate, and then what about the employee lunchroom in
23 the warehouse?

24 MS. HERTZIG: Well, it doesn't have -- it doesn't
25 have two -- two an entrance and exit. It's too small.

1 HEARING OFFICER LEACH: Okay. Let's move on to the
2 time. So the -- the other two parties are okay with 3:30 to
3 4:30, what's your position on the time?

4 MS. HERTZIG: That -- that time is not appropriate.
5 We need -- we need early morning time, so again, once again,
6 the discriminatees, the four discriminatees would be able to
7 vote and actually get their -- their -- their new jobs to the
8 extent that they have been reemployed, that's not everybody.
9 But -- and that there's no way that they could do the 3:30 to
10 04:30 time.

11 HEARING OFFICER LEACH: Is 03:30 to 4:30 okay for the
12 other employee -- the employees that are still there?

13 MS. HERTZIG: Yes.

14 HEARING OFFICER LEACH: Okay.

15 MS. HERTZIG: But we would need an additional time if
16 that's the case.

17 HEARING OFFICER LEACH: Right. You would want to --
18 you would want two session, something early morning, and 3:30
19 to 4:30?

20 MS. HERTZIG: That's correct.

21 HEARING OFFICER LEACH: I think you suggested 6:00 to
22 06:30?

23 MS. HERTZIG: That's correct.

24 HEARING OFFICER LEACH: I mean 6:00 to 06:30 -- Okay,
25 in the morning.

1 MS. HERTZIG: That's correct.

2 HEARING OFFICER LEACH: Okay -- Okay. So I think
3 we've covered the location and the time. Now we would just
4 need to cover the date. So I will start. Just give me one
5 moment, please. I will start off with -- I'll start off with
6 the Union about dates. If for -- if the Regional Director
7 decides that this election will take place in person. I'm
8 going to move straight to March. It's very unlikely that this
9 will issue within the next few days. So let's start in March.
10 Any objections to any dates in March for an election?

11 MS. HERTZIG: There should --

12 HEARING OFFICER LEACH: In person.

13 MS. HERTZIG: There should be no election in March
14 until the region has an opportunity to do its master Slack
15 investigation. And -- but no longer than March 31st, it -- it
16 is going to be in March.

17 HEARING OFFICER LEACH: Okay. I can't comment on any
18 other investigations that are going on, but are you saying
19 outside of that, are there any other objections to the month of
20 March?

21 MS. HERTZIG: No.

22 HEARING OFFICER LEACH: Okay. April?

23 MS. HERTZIG: No.

24 HEARING OFFICER LEACH: May?

25 MS. HERTZIG: No.

1 HEARING OFFICER LEACH: Okay. Just want to be sure
2 there's no specific time period, that's a problem for anybody.
3 I'm going to move on to the Employer. March, any objections?

4 MR. LEONARD: Sure. Let me just state it -- it's the
5 Employer's position that the -- the election should take place
6 as soon as possible. That being said, the Employer would
7 prefer not to have the election on a Monday or Tuesday as those
8 are the busiest and most hectic days and the Employers least
9 able to afford any interruption to its operations on a Monday
10 or a Tuesday?

11 HEARING OFFICER LEACH: So outside of the election
12 not happening on a Monday or Tuesday, you have no objections to
13 any other days, March, April, May?

14 MR. LEONARD: That's correct.

15 HEARING OFFICER LEACH: Okay. And for the
16 Petitioner?

17 MR. ANDRUS: We take the same position as the
18 Employer; we would prefer an election as soon as possible.
19 Preferably in March. And we agree with what he -- what the
20 Employer's attorney has said about the days of the week. So, I
21 guess, say, Wednesday or Thursday would be preferable.

22 HEARING OFFICER LEACH: Friday too?

23 MR. ANDRUS: The Petitioner actually said Friday is
24 not the best day. So if -- if possible Wednesday or Thursday,
25 I -- I can let Vance speak to why he thinks Friday is not the

1 best day if you'd like. But if it's doable, Wednesday or
2 Thursday would -- would make the most sense for us.

3 HEARING OFFICER LEACH: Yes, Vance. You can say what
4 happens on Friday?

5 MR. PENINGTON: I mean, I -- I have no objection to
6 Friday at this point. So Wednesday, Thursday and Friday sound
7 suitable to me if we can agree on an election.

8 HEARING OFFICER LEACH: Okay. So there's not a issue
9 where people are off or there's a day where people leave early
10 or anything like that?

11 MR. LEONARD: No. I mean, I guess, I was thinking in
12 respect to people who might take a longer weekend, you know,
13 but --

14 HEARING OFFICER LEACH: Oh, I see. Okay. All right.
15 So I'm sorry. Let me just go back to my notes here. All
16 right. So we've covered date, time and place. Just give me
17 one moment, please. To go back to my script, make sure I'm not
18 forgetting anything. Do we need any notices of election or
19 ballots translated to any other language? Employer?

20 MR. LEONARD: Not that I'm aware of.

21 HEARING OFFICER LEACH: Union?

22 MS. HERTZIG: No.

23 HEARING OFFICER LEACH: Petitioner?

24 MR. ANDRUS: Not that I'm aware of either.

25 HEARING OFFICER LEACH: Okay. I need to move on to

1 the Employer's on-site representative. Who is that person?

2 MR. LEONARD: Sure. That'll be Dominic Papa. It's
3 D-O-M-I-N-I-C P-A-P-A.

4 HEARING OFFICER LEACH: Job title?

5 MR. LEONARD: He is the president.

6 HEARING OFFICER LEACH: And his address is at the
7 facility?

8 MR. LEONARD: Yes.

9 HEARING OFFICER LEACH: Phone number?

10 MR. LEONARD: Hold on one second.

11 HEARING OFFICER LEACH: And I need -- I need phone
12 number and email address, please.

13 MR. LEONARD: Sure. His email address is
14 dominic.papa

15 HEARING OFFICER LEACH: Mm-hmm.

16 MR. LEONARD: @GFP cement.com.

17 HEARING OFFICER LEACH: Okay.

18 MR. LEONARD: His phone number is 302 997687.

19 HEARING OFFICER LEACH: And it's 99 what?

20 MR. LEONARD: Sorry, 998.

21 HEARING OFFICER LEACH: Got it.

22 MR. LEONARD: 7687.

23 HEARING OFFICER LEACH: Okay. No. That was me. I
24 think I started talking. Okay. One moment. Okay. The
25 Regional Director will issue a decision in this matter as soon

1 as practical and will immediately translate -- transmit the
2 document to the parties and their designated representatives by
3 email, facsimile, or overnight mail is neither an email address
4 nor a facsimile number is provided.

5 Prior to the hearing, the parties were provided form
6 NLRB 5580, description of voter list requirement after hearing
7 in certification and decertification cases, which explains the
8 Employer's obligation to furnish a voter list, should an
9 election be directed in this matter. And I believe the
10 Employer submitted a list as part of it's SOP. Can we go off
11 the record for a moment?

12 COURT REPORTER: Yes. Off the record.

13 (Brief Recess at 10:53 a.m./ Reconvened at 10:57 a.m)

14 COURT REPORTER: Yes. On the record.

15 HEARING OFFICER LEACH: Okay. So while we were off
16 the record, we discussed oral arguments, oral briefs, the
17 parties elected not to present an oral argument. The regional
18 -- the Regional Director is allowing briefs. If you wish to
19 file a brief, briefs are due close business -- first a week
20 from today, Thursday, March 2nd. Okay. The parties are
21 reminded that pursuant to section 102. 5 of the board's rules
22 and regulations, briefs and other case documents must be filed
23 electronically. E-filing through the agency's website,
24 WWW.nlr.gov, unless the party filing the document does not
25 have access to the means for filing electronically or filing

1 electronically would impose an undue burden.

2 Briefs or other documents filed by means other than
3 e-filing must be accompanied by a statement explaining why the
4 filing party does not have access to the means for filing
5 electronically or filing electronically would impose an undue
6 burden, filing a brief for other document electronically may be
7 accomplished by using the e-filing system on WWW.nlrb.gov.

8 Once the website is accessed, click on the e-file
9 documents, enter the NLRB case number and follow the detailed
10 instructions, the responsibility for the receipt of the
11 document rest exclusively with the sender. Failure to timely
12 file a brief will not be excused on the basis that the
13 transmission could not be accomplished because the agency's
14 website was offline or unavailable for some time -- for some
15 reason or other reason, absent a determination of technical
16 failure of the site with notice of such posted to the website.

17 Just give me one moment, please. I'm just going to
18 make sure that I have everything. I believe the parties you
19 have access to our court reporter. Brad's email is attached to
20 the email I sent out yesterday with all the documents. So if
21 you need to request a copy of the transcript, please do that
22 from -- from Brad. Just one moment, please.

23 Okay. For the court reporter, do you have all of the
24 Exhibits that I sent over, including the signed -- the signed
25 Board Exhibit 2?

1 COURT REPORTER: Yes.

2 HEARING OFFICER LEACH: The court reporter, do you
3 have that?

4 COURT REPORTER: Yes.

5 HEARING OFFICER LEACH: Oh, okay. And if the parties
6 would allow, I will email a copy. I'll sign off on the Board
7 Exhibit 2, and I will send you a copy of that. And I will send
8 that -- I'll send it to the same email. So you all have a copy
9 of and the court reporter has a copy of that as well.

10 MS. HERTZIG: Yes. Thank you.

11 HEARING OFFICER LEACH: Okay. Yes. And be sure you
12 -- if you would like you a request to expedite a copy of the
13 transcript. Is there anything further from the Petitioner?

14 MR. ANDRUS: Nothing further.

15 HEARING OFFICER LEACH: Anything further from the
16 Union?

17 MR. LEONARD: Nothing further.

18 HEARING OFFICER LEACH: Anything further from the
19 Employer?

20 MR. LEONARD: Nothing further.

21 HEARING OFFICER LEACH: Okay. Then the hearing is
22 closed. Off the record.

23

24 (Whereupon, at 11:01 p.m., the hearing in the above-entitled
25 matter was closed.)

CERTIFICATION

This is to certify that the attached proceedings before the National Labor Relations Board (NLRB), Region 4, in the matter of GFP mobile mix LLC and Vance Penington, Case No. 04-RD-311366, at National labor relations board, on February 23, 2023, was held according to the record, and that this is the original, complete, and true and accurate transcript that has been compared to the recording from the hearing, that the exhibits are complete and no exhibits received in evidence or in the rejected file are missing.

Bradley E. Weirich

Bradley E. Weirich

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OFFICIAL REPORT OF PROCEEDINGS
BEFORE THE
NATIONAL LABOR RELATIONS BOARD

Board's Exhibits
B-1 thru B-3, B-5 and B-6

In the Matter of:

Case No. : 04-RD-311366

GFP Mobile Mix Supply, LLC,

Employer,

and

Vance Pennington,

Petitioner,

And

IUOE Local 542,

Union

Place: Philadelphia, PA (via Zoom)

Dates: February 23, 2023

OFFICIAL REPORTERS

BURKE COURT REPORTING, LLC

64 Magnolia Place
Wayne, NJ 07470
(973) 692-0660

EXHIBIT NO.: B-1 MARKED: X RECEIVED: X REJECTED :
WITHDRAWN: NO OF PAGES: 11 DATE: 02/23/23
CASE NO: 04-RD-311366 CASE NAME: GFP Mobile
REPORTER: B.Weirich

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD
RD PETITION

DO NOT WRITE IN THIS SPACE

Case No.

04-RD-311366

Date Filed

02/02/23

INSTRUCTIONS: Unless e-Filed using the Agency's website, www.nlr.gov, submit an original of this Petition to an NLRB office in the Region in which the employer concerned is located. The petition must be accompanied by both a showing of interest (see 7 below) and a certificate of service showing service on the employer and all other parties named in the petition of: (1) the petition; (2) Statement of Position form (Form NLRB-505); and (3) Description of Representation Case Procedures (Form NLRB 4812). The showing of interest should only be filed with the NLRB and should not be served on the employer or any other party.

1. PURPOSE OF THIS PETITION: RD- DECERTIFICATION (REMOVAL OF REPRESENTATIVE) - A substantial number of employees assert that the certified or currently recognized bargaining representative is no longer their representative. The Petitioner alleges that the following circumstances exist and requests that the National Labor Relations Board proceed under its proper authority pursuant to Section 9 of the National Labor Relations Act.

2a. Name of Employer GFP Mobile Mix Supply LLC		2b. Address(es) of Establishment(s) involved (Street and number, city, state, ZIP code) 14 Hadco Rd, Wilmington, DE 19804	
3a. Employer Representative - Name and Title Dominic Papa President		3b. Address (If same as 2b - state same) Same	
3c. Tel. No. (302) 998-7687	3d. Fax No.	3e. Cell No.	3f. E-Mail Address dominic.papa@gfpcement.com
4a. Type of Establishment (Factory, mine, wholesaler, etc.) Ready-Mix Concrete Manufacturing			4b. Principal product or service Concrete
5a. Description of Unit Involved Included: Ready-Mix Concrete Operators / Drivers Excluded: All others			5b. City and State where unit is located: Wilmington, DE

6. No. of Employees in Unit 8 **7. Do a substantial number (30% or more) of the employees in the unit no longer wish to be represented by the certified or currently recognized bargaining representative?** ☒ Yes ☐ No

8a. Name of Recognized or Certified Bargaining Agent IUOE LOCAL 542		8b. Affiliation, if any	
8c. Address 1375 Virginia Drive Suite 100, Fort Washington, PA 19034		8d. Tel. No. (215) 542-7500	8e. Cell No. (215) 260-4627
		8f. Fax No. (215) 542-7557	8g. E-Mail Address

9. Date of Recognition or Certification 02/01/2022 **10. Expiration Date of Current or Most Recent Contract, if any** (Month, Day, Year)

11a. Is there now a strike or picketing at the Employer's establishment(s) involved? ☐ Yes ☒ No **11b. If so, approximately how many employees are participating?**
11c. The Employer has been picketed by or on behalf of (Insert Name) a labor organization, of (Insert Address) since (Month, Day, Year)

12. Organizations or individuals other than those named in items 8 and 11c, which have claimed recognition as representatives and other organizations and individuals known to have a representative interest in any employees in the unit described in item 5 above. (If none, so state)

12a. Name	12b. Address	12c. Tel. No.	12d. Fax No.
		12e. Cell No.	12f. E-Mail Address

13. Election Details: If the NLRB conducts an election in this matter, state your position with respect to any such election. **13a. Election Type:** ☒ Manual ☐ Mail ☐ Mixed Manual/Mail

13b. Election Date(s) 02/14/2023 **13c. Election Time(s)** 8:00 AM **13d. Election Location(s)** 14 Hadco Rd, Wilmington, DE 19804


14. Full Name of Petitioner Vance Michael Pennington		
14a. Address (Street and number, city, state, ZIP code) 162 Garner Drive, Avondale, PA 19311		14b. Tel. No.
		14c. Fax No.
		14d. Cell No. (484) 889-7799
		14e. E-Mail Address vpennington88@gmail.com

14f. Affiliation, if any

15. Representative of the Petitioner who will accept service of all papers for purposes of the representation proceeding.

15a. Name Vance Pennington		15b. Title Ready-Mix Concrete Operator	
15c. Address (Street and number, city, state, ZIP code) 162 Garner Drive, Avondale, PA 19311		15d. Tel. No.	15e. Fax No.
		15f. Cell No.	15g. E-Mail Address

I declare that I have read the above petition and that the statements are true to the best of my knowledge and belief.

Name (Print) Vance Pennington	Signature 	Title Ready-Mix Concrete Operator	Date Filed 02/01/2023
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WILLFUL FALSE STATEMENTS ON THIS PETITION CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)

PRIVACY ACT STATEMENT

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 et seq. The principal use of the information is to assist the National Labor Relations Board



**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 4**



<p>GFP Mobile Mix Supply, LLC</p> <p style="text-align: center;">Employer</p> <p style="text-align: center;">and</p> <p>Vance Pennington</p> <p style="text-align: center;">Petitioner</p> <p style="text-align: center;">and</p> <p>IUOE Local 542</p> <p style="text-align: center;">Union</p>	<p>Case 04-RD-311366</p>
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NOTICE OF REPRESENTATION HEARING

The Petitioner filed the attached petition pursuant to Section 9(c) of the National Labor Relations Act. It appears that a question affecting commerce exists as to whether the employees in the unit described in the petition wish to be represented by a collective-bargaining representative as defined in Section 9(a) of the Act.

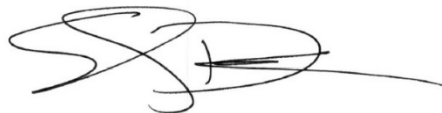
YOU ARE HEREBY NOTIFIED that, pursuant to Sections 3(b) and 9(c) of the Act, at 10:00 AM on **Thursday, February 23, 2023** and on consecutive days thereafter until concluded, **by audioconference or videoconference, as appropriate**, a hearing will be conducted before a hearing officer of the National Labor Relations Board. At the hearing, the parties will have the right to appear in person or otherwise, and give testimony.

YOU ARE FURTHER NOTIFIED that, pursuant to Section 102.63(b) of the Board's Rules and Regulations, GFP Mobile Mix Supply, LLC and IUOE Local 542 must complete the Statement of Position and file it and all attachments with the Regional Director and serve it on the parties listed on the petition such that is received by them by no later than **noon** Eastern time on **Tuesday, February 14, 2023**. Following timely filing and service of a Statement of Position by GFP Mobile Mix Supply, LLC and IUOE Local 542, the Petitioner must complete its Responsive Statement of Position(s) responding to the issues raised in the Employer's and/or Union's Statement of Position and file them and all attachments with the Regional Director and serve them on the parties named in the petition such that they are received by them no later than **noon** Eastern on **Friday, February 17, 2023**.

Pursuant to Section 102.5 of the Board's Rules and Regulations, all documents filed in cases before the Agency must be filed by electronically submitting (E-Filing) through the Agency's website (www.nlrb.gov), unless the party filing the document does not have access to the means for filing electronically or filing electronically would impose an undue burden. Documents filed by means other than E-Filing must be accompanied by a statement explaining

why the filing party does not have access to the means for filing electronically or filing electronically would impose an undue burden. Detailed instructions for using the NLRB's E-Filing system can be found in the [E-Filing System User Guide](#).

The Statement of Position and Responsive Statement of Position must be E-Filed but, unlike other E-Filed documents, must be filed by **noon** Eastern on the due date in order to be timely. If an election agreement is signed by all parties and returned to the Regional Office before the due date of the Statement of Position, the Statement of Position and Responsive Statement of Position are not required to be filed. If an election agreement is signed by all parties and returned to the Regional office after the due date of the Statement of Position but before the due date of the Responsive Statement of Position, the Responsive Statement of Position is not required to be filed.



Dated: February 2, 2023

Emily DeSa
Acting Regional Director
National Labor Relations Board
Region 04
100 E Penn Square
Suite 403
Philadelphia, PA 19107

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD**

<p>GFP Mobile Mix Supply, LLC</p> <p style="text-align: center;">Employer</p> <p style="text-align: center;">and</p> <p>Vance Pennington</p> <p style="text-align: center;">Petitioner</p> <p style="text-align: center;">and</p> <p>IUOE Local 542</p> <p style="text-align: center;">Union</p>	<p>Case 04-RD-311366</p>
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AFFIDAVIT OF SERVICE OF: Petition dated February 1, 2023, Notice of Representation Hearing dated February 2, 2023, Description of Procedures in Certification and Decertification Cases (Form NLRB-4812), Notice of Petition for Election, and Statement of Position Form (Form NLRB-505).

I, the undersigned employee of the National Labor Relations Board, being duly sworn, say that on February 2, 2023, I served the above documents by electronic mail and regular mail upon the following persons, addressed to them at the following addresses:

Dominic Papa
GFP Mobile Mix Supply, LLC
14 Hadco Road
Wilmington, DE 19804
dominic.papa@gfpcement.com

Vance Pennington, Ready-Mix Concrete
Operator
162 Garner Drive
Avondale, PA 19311
vpennington88@gmail.com

IUOE Local 542
1375 Virginia Drive
Suite 100
Fort Washington, PA 19034
IUOELocal542@yahoo.com

February 2, 2023

Date

Shanda A Washington,
Designated Agent of NLRB

Name

/s/ Shanda A Washington

Signature

UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD
STATEMENT OF POSITION**DO NOT WRITE IN THIS SPACE**

Case No.

04-RD-311366

Date Filed

February 1, 2023

INSTRUCTIONS: Submit this Statement of Position to an NLRB Office in the Region in which the petition was filed and serve it and all attachments on each party named in the petition in this case such that it is received by them by the date and time specified in the notice of hearing.

Note: Non employer parties who complete this form are NOT required to complete items 8f or 8g below or to provide a commerce questionnaire or the lists described in item 7.

1a. Full name of party filing Statement of Position International Union of Operating Engineers Local 542		1c. Business Phone: 215-542-7500	1e. Fax No.: 215-542-7557		
1b. Address (Street and number, city, state, and ZIP code) 1375 Virginia Dr., Ft. Washington, PA 19034		1d. Cell No.:	1f. e-Mail Address rhertzig@cjtlaw.org		
2. Do you agree that the NLRB has jurisdiction over the Employer in this case? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No (A completed commerce questionnaire (Attachment A) must be submitted by the Employer, regardless of whether jurisdiction is admitted)					
3. Do you agree that the proposed unit is appropriate? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No (If not, answer 3a and 3b.)					
a. State the basis for your contention that the proposed unit is not appropriate. (If you contend a classification should be excluded or included briefly explain why, such as shares a community of interest or are supervisors or guards.) Description should match RC Petition.					
b. State any classifications, locations, or other employee groupings that must be added to or excluded from the proposed unit to make it an appropriate unit. <table border="1"> <tr> <td>Added Driver/Operators</td> <td>Excluded All other employees</td> </tr> </table>				Added Driver/Operators	Excluded All other employees
Added Driver/Operators	Excluded All other employees				
4. Other than the individuals in classifications listed in 3b, list any individual(s) whose eligibility to vote you intend to contest at the pre-election hearing in this case and the basis for contesting their eligibility. No					
5. Is there a bar to conducting an election in this case? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No If yes, state the basis for your position. Numerous and egregious unfair labor practices - No election should be held until charges are resolved.					
6. Describe all other issues you intend to raise at the pre-election hearing. <ol style="list-style-type: none"> Petition should be dismissed until all unfair labor practices (ULP) are resolved. See attached list. Discriminatees should vote in election. Election to be held by mail to allow discriminatees to vote. 					
7. The employer must provide the following lists which must be alphabetized (overall or by department) in the format specified at www.nlr.gov/sites/default/files/attachments/basic-page/node-4559/Optional Forms for Voter List.docx . (a) A list containing the full names, work locations, shifts and job classification of all individuals in the proposed unit as of the payroll period immediately preceding the filing of the petition who remain employed as of the date of the filing of the petition. (Attachment B) (b) If the employer contends that the proposed unit is inappropriate the employer must provide (1) a separate list containing the full names, work locations, shifts and job classifications of all individuals that it contends must be added to the proposed unit, if any to make it an appropriate unit, (Attachment C) and (2) a list containing the full names of any individuals it contends must be excluded from the proposed unit to make it an appropriate unit. (Attachment D)					
8a. State your position with respect to the details of any election that may be conducted in this matter. Type: <input type="checkbox"/> Manual <input checked="" type="checkbox"/> Mail <input type="checkbox"/> Mixed Manual/Mail					
8b. Date(s) After ULPs are resolved.	8c. Time(s)	8d. Location(s)			
8e. Eligibility Period (e.g. special eligibility formula) After ULPs are resolved.	8f. Last Payroll Period Ending Date	8g. Length of payroll period <input type="checkbox"/> Weekly <input type="checkbox"/> Biweekly <input type="checkbox"/> Other (specify length)			
9. Representative who will accept service of all papers for purposes of the representation proceeding					
9a. Full name and title of authorized representative Regina C. Hertzig, Esquire- Cleary, Josem & Trigiani, LLP	9b. Signature of authorized representative /s/ Regina C. Hertzig	9c. Date 2/13/23			
9d. Address (Street and number, city, state, and ZIP code) 325 Chestnut Street, Suite 200, Philadelphia, PA 19106			9e. e-Mail Address rhertzig@cjtlaw.org		
9f. Business Phone No.: 215-735-9099	9g. Fax No. 215-640-3201	9h. Cell No.			

WILLFUL FALSE STATEMENTS ON THIS PETITION CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)

PRIVACY ACT STATEMENT

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. Section 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing representation proceedings. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. 74942-43 (December 13, 2006). The NLRB will further explain these uses upon request. Failure to supply the information requested by this form may preclude you from litigating issues under 102.66(d) of the Board's Rules and Regulations and may cause the NLRB to refuse to further process a representation case or may cause the NLRB to issue you a subpoena and seek enforcement of the subpoena in federal court.

ATTACHMENT TO POSITION STATEMENT**Case No. 04-RD-311366**

6.1. Petition should be dismissed until all unfair labor practices are resolved.

04-CA-291282

04-CA-291283

04-CA-291285

04-CA-291287

04-CA-291289

04-CA-291325

04-CA-291361

FORM NLRB-505
(12-20)UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD
STATEMENT OF POSITION**DO NOT WRITE IN THIS SPACE**

Case No.

Date Filed

INSTRUCTIONS: Submit this Statement of Position to an NLRB Office in the Region in which the petition was filed and serve it and all attachments on each party named in the petition in this case such that it is received by them by the date and time specified in the notice of hearing.
Note: Non-employer parties who complete this form are NOT required to complete items 8f or 8g below or to provide a commerce questionnaire or the lists described in item 7.

1a. Full name of party filing Statement of Position: GFP Mobile Mix Supply LLC		1c. Business Phone: 302-998-7687	1e. Fax No.: 302-998-7693
1b. Address (Street and number, city, state, and ZIP code): 14 Hadco Road, Wilmington, DE 19804		1d. Cell No.:	1f. e-Mail Address: stacey.papa@gfpcement.com
2. Do you agree that the NLRB has jurisdiction over the Employer in this case? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No (A completed commerce questionnaire (Attachment A) must be submitted by the Employer, regardless of whether jurisdiction is admitted)			
3. Do you agree that the proposed unit is appropriate? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No (If not, answer 3a and 3b.)			
a. State the basis for your contention that the proposed unit is not appropriate. (If you contend a classification should be excluded or included briefly explain why, such as shares a community of interest or are supervisors or guards.)			
b. State any classifications, locations, or other employee groupings that must be added to or excluded from the proposed unit to make it an appropriate unit. Added: Excluded:			
4. Other than the individuals in classifications listed in 3b, list any individual(s) whose eligibility to vote you intend to contest at the pre-election hearing in this case and the basis for contesting their eligibility.			
5. Is there a bar to conducting an election in this case? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If yes, state the basis for your position.			
6. Describe all other issues you intend to raise at the pre-election hearing.			
7. The employer must provide the following lists which must be alphabetized (overall or by department) in the format specified at http://www.nlr.gov/what-we-do/conduct-elections/representation-case-rules-effective-april-14-2011 (a) A list containing the full names, work locations, shifts and job classification of all individuals in the proposed unit as of the payroll period immediately preceding the filing of the petition who remain employed as of the date of the filing of the petition. (Attachment B) (b) If the employer contends that the proposed unit is inappropriate the employer must provide (1) a separate list containing the full names, work locations, shifts and job classifications of all individuals that it contends must be added to the proposed unit, if any to make it an appropriate unit, (Attachment C) and (2) a list containing the full names of any individuals it contends must be excluded from the proposed unit to make it an appropriate unit. (Attachment D).			
8a. State your position with respect to the details of any election that may be conducted in this matter. Type: <input type="checkbox"/> Manual <input type="checkbox"/> Mail <input type="checkbox"/> Mixed Manual/Mail			
8b. Date(s): March 1, 2023	8c. Time(s): 3:30 pm - 4:30 pm	8d. Location(s): 14 Hadco Road, Wilmington, DE 19804	
8e. Eligibility Period (e.g. special eligibility formula):	8f. Last Payroll Period Ending Date: February 10, 2023	8g. Length of payroll period <input checked="" type="checkbox"/> Weekly <input type="checkbox"/> Biweekly <input type="checkbox"/> Other (specify length)	
9. Representative who will accept service of all papers for purposes of the representation proceeding			
9a. Full name and title of authorized representative James Leonard, Counsel		9b. Signature of authorized representative 	9c. Date 2/14/23
9d. Address (Street and number, city, state, and ZIP code) 851 DuPortail Road, Second Floor Chesterbrook, PA 19087		9e. e-Mail Address jleonard@paisnerlitvin.com	
9f. Business Phone No.: 484-436-2122	9g. Fax No.:	9h. Cell No.: 845-269-1701	

WILLFUL FALSE STATEMENTS ON THIS PETITION CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)**PRIVACY ACT STATEMENT**

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. Section 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing representation proceedings. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. 74942-43 (December 13, 2006). The NLRB will further explain these uses upon request. Failure to supply the information requested by this form may preclude you from litigating issues under 102.66(d) of the Board's Rules and Regulations and may cause the NLRB to refuse to further process a representation case or may cause the NLRB to issue you a subpoena and seek enforcement of the subpoena in federal court.

FORM NLRB-5081
(3-11)

NATIONAL LABOR RELATIONS BOARD

QUESTIONNAIRE ON COMMERCE INFORMATION

Please read carefully, answer all applicable items, and return to the NLRB Office.
If additional space is required, please add a page and identify item number.

CASE NAME		CASE NUMBER	
1. EXACT LEGAL TITLE OF ENTITY (As filed with State and/or stated in legal documents forming entity) GFP Mobile Mix Supply LLC			
2. TYPE OF ENTITY <input type="checkbox"/> CORPORATION <input checked="" type="checkbox"/> LLC <input type="checkbox"/> LLP <input type="checkbox"/> PARTNERSHIP <input type="checkbox"/> SOLE PROPRIETORSHIP <input type="checkbox"/> OTHER (Specify)			
3. IF A CORPORATION OR LLC A. STATE OF INCORPORATION OR FORMATION B. NAME, ADDRESS, AND RELATIONSHIP (e.g. parent, subsidiary) OF ALL RELATED ENTITIES Delaware			
4. IF AN LLC OR ANY TYPE OF PARTNERSHIP, FULL NAME AND ADDRESS OF ALL MEMBERS OR PARTNERS Stacey Papa - 14 Hadco Rd., Wilmington, DE 19804 / Laura Fedale - 14 Hadco Rd., Wilmington, DE 19804			
5. IF A SOLE PROPRIETORSHIP, FULL NAME AND ADDRESS OF PROPRIETOR N/A			
6. BRIEFLY DESCRIBE THE NATURE OF YOUR OPERATIONS (Products handled or manufactured, or nature of services performed) Concrete Supplier			
7A. PRINCIPAL LOCATION 14 Hadco Rd. Wilmington, DE 19804		7B. BRANCH LOCATIONS	
8. NUMBER OF PEOPLE PRESENTLY EMPLOYED A. TOTAL B. AT THE ADDRESS INVOLVED IN THIS MATTER 11 11			
9. DURING THE MOST RECENT (Check the appropriate box): <input type="checkbox"/> CALENDAR <input type="checkbox"/> 12 MONTHS or <input checked="" type="checkbox"/> FISCAL YEAR FY DATES			
A. Did you provide services valued in excess of \$50,000 directly to customers outside your State? If no, indicate actual value.		YES	NO
B. If you answered no to 9A, did you provide services valued in excess of \$50,000 to customers in your State who purchased goods valued in excess of \$50,000 from directly outside your State? If no, indicate the value of any such services you provided.		X	X
C. If you answered no to 9A and 9B, did you provide services valued in excess of \$50,000 to public utilities, transit systems, newspapers, health care institutions, broadcasting stations, commercial buildings, educational institutions, or retail concerns? If less than \$50,000, indicate amount.		X	X
D. Did you sell goods valued in excess of \$50,000 directly to customers located outside your State? If less than \$50,000, indicate amount.		X	X
E. If you answered no to 9D, did you sell goods valued in excess of \$50,000 directly to customers located inside your State who purchased other goods valued in excess of \$50,000 from directly outside your State? If less than \$50,000, indicate amount.		X	X
F. Did you purchase and receive goods valued in excess of \$50,000 from directly outside your State? If less than \$50,000, indicate amount.		X	X
G. Did you purchase and receive goods valued in excess of \$50,000 from enterprises who received the goods directly from points outside your State? If less than \$50,000, indicate amount.		X	X
H. Gross Revenues from all sales or performance of services (Check the largest amount): <input type="checkbox"/> \$100,000 <input type="checkbox"/> \$250,000 <input type="checkbox"/> \$500,000 <input checked="" type="checkbox"/> \$1,000,000 or more If less than \$100,000, indicate amount.			
I. Did you begin operations within the last 12 months? If yes, specify date:		X	X
10. ARE YOU A MEMBER OF AN ASSOCIATION OR OTHER EMPLOYEE GROUP THAT ENGAGES IN COLLECTIVE BARGAINING? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO (If yes, name and address of association or group)			
11. REPRESENTATIVE BEST QUALIFIED TO GIVE FURTHER INFORMATION ABOUT YOUR OPERATIONS			
NAME Dominic J. Papa	TITLE President	E-MAIL ADDRESS dominic.papa@gfpcement.com	TEL. NUMBER 302-998-7687
12. AUTHORIZED REPRESENTATIVE COMPLETING THIS QUESTIONNAIRE			
NAME AND TITLE Dominic J. Papa / President	SIGNATURE 	E-MAIL ADDRESS dominic.papa@gfpcement.com	DATE 2/10/2023

PRIVACY ACT STATEMENT

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing representation and/or unfair labor practice proceedings and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary. However, failure to supply the information may cause the NLRB to refuse to process any further a representation or unfair labor practice case, or may cause the NLRB to issue you a subpoena and seek enforcement of the subpoena in federal court.

INITIAL LIST (Filed with Statement of Position)

Employer Name: GFP Mobile Mix Supply LLC

Case No. 04-RD-311366

Attachment B – List of Employees in the Proposed Unit

EMPLOYEE NAME	JOB CLASSIFICATION	WORK LOCATION	SHIFT ¹
(b) (6), (b) (7)(C)	Driver	14 Hadco Road	Day
	Driver	14 Hadco Road	Day
	Driver	14 Hadco Road	Day
	Driver	14 Hadco Road	Day
	Driver	14 Hadco Road	Day
	Driver	14 Hadco Road	Day
	Driver	14 Hadco Road	Day
	Driver	14 Hadco Road	Day

¹ Employees' shifts vary based on customer demand. A typical shift is from approximately 7:30 a.m. to 3:30 p.m.

RESPONSIVE STATEMENT OF POSITION - RC, RD or RM PETITION

INSTRUCTIONS: If a party has submitted and served on you a timely Statement of Position to an RC, RD or RM petition, the Petitioner must submit this Responsive Statement of Position to an NLRB Office in the Region in which the petition was filed and serve it and any attachments on each party named in the petition in this case such that it is received by noon local time, three business days prior to the hearing date specified in the Notice of Hearing. A separate form must be completed for each timely filed and properly served Statement of Position received by the Petitioner. The Petitioner-Employer in a RM case is required to file this Responsive Statement of Position and include an appropriate employee list without regard to whether another party has filed a Statement of Position.

This Responsive Statement of Position is filed by the Petitioner in response to a Statement of Position received from the following party:

The Employer GFP Mobile Mix Supply LLC	An Intervenor/Union Internation Union of Operating Engineers Local 542
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1a. Full Name of Party Filing Responsive Statement of Position
Vance Pennington

1c. Business Phone	1d. Cell No. (484) 889-7799	1e. Fax No.	1f. E-Mail Address vpennington88@gmail.com
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1b. Address (Street and Number, City, State and ZIP Code)
162 Garner Drive, Avondale, PA 19311

2. Identify all issues raised in the other party's Statement of Position that you dispute and describe the basis of your dispute:

a. **EMPLOYER NAME/IDENTITY** [Box 1a of Statement of Position Form NLRB-505 and Questionnaire on Commerce Information]

☒ No Dispute (no further response required) ☐ Dispute (response required below)

Response to Statement of Position:

b. **JURISDICTION** [Box 2 of Statement of Position Form NLRB-505 and Questionnaire on Commerce Information]

☒ No Dispute (no further response required) ☐ Dispute (response required below)

Response to Statement of Position:

c. **APPROPRIATENESS OF UNIT** [Boxes 3, 3a and 3b of Statement of Position Form NLRB-505]

☒ No Dispute (no further response required) ☐ Dispute (response required below)

Response to Statement of Position:

Agree that the description should match.

d. **INDIVIDUAL ELIGIBILITY** [Box 4 of Statement of Position Form NLRB-505]

☒ No Dispute (no further response required) ☐ Dispute (response required below)

Response to Statement of Position:

e. **BARS TO ELECTION** [Box 5 of Statement of Position Form NLRB-505]

☐ No Dispute (no further response required) ☒ Dispute (response required below)

Response to Statement of Position:

Election to be held separately while unfair labor charges are being resolved.

f. **ALL OTHER ISSUES** [Box 6 of Statement of Position Form NLRB-505]

☐ No Dispute (no further response required) ☒ Dispute (response required below)

Response to Statement of Position:

Unfair labor practices should be resolved separately. Active payroll employee votes only.
Election to be held manually.

g. **ELECTION DETAILS** [Boxes 8a, 8b, 8c, 8d, 8e, 8f, and 8g of Statement of Position Form NLRB-505]

☐ No Dispute (no further response required) ☒ Dispute (response required below)

Response to Statement of Position:

Unfair labor practices resolved separately.

Full Name and Title of Authorized Representative
Vance Pennington Operator/Driver

Signature of Authorized Representative

Date
02/16/2023

WILLFUL FALSE STATEMENTS ON THIS PETITION CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001) PRIVACY ACT STATEMENT

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Please fill all necessary fields on the form PRIOR to digitally signing. To make changes after the form has been signed, right-click on the signature field.

EXHIBIT NO.: B-2 MARKED: X RECEIVED: X REJECTED :
WITHDRAWN: NO OF PAGES: 6 DATE: 02/23/23
CASE NO: 04-RD-311366 CASE NAME: GFP Mobile
REPORTER: B.Weirich



**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION**



GFP Mobile Mix Supply, LLC Employer and Vance Pennington Petitioner and International Union of Operating Engineers, Local 542 Union	Case 04-RD-311366
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STIPULATION

The parties in this matter stipulate and agree that:

1. We have been informed of the procedures at formal hearings before the National Labor Relations Board by service of a Description of Procedures in Certification and Decertification Cases. The Hearing Officer has offered to us additional copies of the Description of Procedures.
2. To the extent the formal documents in this proceeding do not correctly reflect the names of the parties, the parties hereby make a joint motion to the Regional Director to amend the petition and other formal documents to correctly reflect the names as set forth above.
3. The International Union of Operating Engineers, Local 542 is a labor organization within the meaning of Section 2(5) of the National Labor Relations Act.
4. The International Union of Operating Engineers, Local 542 claims to represent the employees in the unit described in the petition herein.
5. There is no collective-bargaining agreement covering any of the employees in the unit sought in the petition herein and there is no contract bar to an election in this matter.
6. The Employer is an employer engaged in commerce within the meaning of Section 2(6) and (7) of the Act and is subject to the jurisdiction of the Board.

Commerce facts are as follows:

GFP Mobile Mix Supply LLC, a Delaware corporation, is engaged in the mixing and delivery of cement from its 14 Hadco Road, Wilmington, DE facility. During the past 12-month period, the Employer derived gross revenues valued in excess of \$250,000, and


purchased and received at its Wilmington, DE facility goods valued in excess of \$5,000 directly from points outside of the State of Delaware.

7. The following unit is an appropriate unit within the meaning of Section 9(b) of the Act:

Included: All full-time and regular part-time volumetric concrete truck drivers and operators employed by the Employer at its 14 Hadco Road, Wilmington, DE facility.

Excluded: All other employees, clerical employees, professional employees, guards and supervisors as defined in the Act.

Upon receipt of this Stipulation by the Hearing Officer it may be admitted, without objection, as a Board exhibit in this proceeding.


For the Employer

For the Petitioner

For the Union involved

RECEIVED:

Mary R. Leach

Hearing Officer

2-23-2023

Date

Board Exhibit No. 2



**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION**



GFP Mobile Mix Supply, LLC Employer and Vance Pennington Petitioner and International Union of Operating Engineers, Local 542 Union	Case 04-RD-311366
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3. The International Union of Operating Engineers, Local 542 is a labor organization within the meaning of Section 2(5) of the National Labor Relations Act.

4. The International Union of Operating Engineers, Local 542 claims to represent the employees in the unit described in the petition herein.

5. There is no collective-bargaining agreement covering any of the employees in the unit sought in the petition herein and there is no contract bar to an election in this matter.

6. The Employer is an employer engaged in commerce within the meaning of Section 2(6) and (7) of the Act and is subject to the jurisdiction of the Board.

Commerce facts are as follows:

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Excluded: All other employees, clerical employees, professional employees, guards and supervisors as defined in the Act.

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For the Employer

For the Petitioner



For the Union involved

RECEIVED:

Mary R. Leach

Hearing Officer

2-23-2023

Date

Board Exhibit No. 2



**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION**



GFP Mobile Mix Supply, LLC Employer and Vance Pennington Petitioner and International Union of Operating Engineers, Local 542 Union	Case 04-RD-311366
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STIPULATION

The parties in this matter stipulate and agree that:

1. We have been informed of the procedures at formal hearings before the National Labor Relations Board by service of a Description of Procedures in Certification and Decertification Cases. The Hearing Officer has offered to us additional copies of the Description of Procedures.

2. To the extent the formal documents in this proceeding do not correctly reflect the names of the parties, the parties hereby make a joint motion to the Regional Director to amend the petition and other formal documents to correctly reflect the names as set forth above.

3. The International Union of Operating Engineers, Local 542 is a labor organization within the meaning of Section 2(5) of the National Labor Relations Act.

4. The International Union of Operating Engineers, Local 542 claims to represent the employees in the unit described in the petition herein.

5. There is no collective-bargaining agreement covering any of the employees in the unit sought in the petition herein and there is no contract bar to an election in this matter.

6. The Employer is an employer engaged in commerce within the meaning of Section 2(6) and (7) of the Act and is subject to the jurisdiction of the Board.

Commerce facts are as follows:

GFP Mobile Mix Supply LLC, a Delaware corporation, is engaged in the mixing and delivery of cement from its 14 Hadco Road, Wilmington, DE facility. During the past 12-month period, the Employer derived gross revenues valued in excess of \$250,000, and

purchased and received at its Wilmington, DE facility goods valued in excess of \$5,000 directly from points outside of the State of Delaware.

7. The following unit is an appropriate unit within the meaning of Section 9(b) of the Act:

Included: All full-time and regular part-time volumetric concrete truck drivers and operators employed by the Employer at its 14 Hadco Road, Wilmington, DE facility.

Excluded: All other employees, clerical employees, professional employees, guards and supervisors as defined in the Act.

Upon receipt of this Stipulation by the Hearing Officer it may be admitted, without objection, as a Board exhibit in this proceeding.

For the Employer

Byron Andrews

For the Petitioner

For the Union involved

RECEIVED:

Mary R. Leach

Hearing Officer

2-23-2023

Date

Board Exhibit No. 2

EXHIBIT NO.: B-3 MARKED: X RECEIVED: X REJECTED :
WITHDRAWN: NO OF PAGES: 2 DATE: 02/23/23
CASE NO: 04-RD-311366 CASE NAME: GFP Mobile
REPORTER: B.Weirich

UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD
STATEMENT OF POSITION**DO NOT WRITE IN THIS SPACE**

Case No.

04-RD-311366

Date Filed

February 1, 2023

INSTRUCTIONS: Submit this Statement of Position to an NLRB Office in the Region in which the petition was filed and serve it and all attachments on each party named in the petition in this case such that it is received by them by the date and time specified in the notice of hearing.**Note:** Non employer parties who complete this form are NOT required to complete items 8f or 8g below or to provide a commerce questionnaire or the lists described in item 7.

1a. Full name of party filing Statement of Position International Union of Operating Engineers Local 542		1c. Business Phone: 215-542-7500	1e. Fax No.: 215-542-7557		
1b. Address (Street and number, city, state, and ZIP code) 1375 Virginia Dr., Ft. Washington, PA 19034		1d. Cell No.:	1f. e-Mail Address rhertzig@cjtlaw.org		
2. Do you agree that the NLRB has jurisdiction over the Employer in this case? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No (A completed commerce questionnaire (Attachment A) must be submitted by the Employer, regardless of whether jurisdiction is admitted)					
3. Do you agree that the proposed unit is appropriate? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No (If not, answer 3a and 3b.)					
a. State the basis for your contention that the proposed unit is not appropriate. (If you contend a classification should be excluded or included briefly explain why, such as shares a community of interest or are supervisors or guards.) Description should match RC Petition.					
b. State any classifications, locations, or other employee groupings that must be added to or excluded from the proposed unit to make it an appropriate unit. <table border="1"> <tr> <td>Added Driver/Operators</td> <td>Excluded All other employees</td> </tr> </table>				Added Driver/Operators	Excluded All other employees
Added Driver/Operators	Excluded All other employees				
4. Other than the individuals in classifications listed in 3b, list any individual(s) whose eligibility to vote you intend to contest at the pre-election hearing in this case and the basis for contesting their eligibility. No					
5. Is there a bar to conducting an election in this case? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No If yes, state the basis for your position. Numerous and egregious unfair labor practices - No election should be held until charges are resolved.					
6. Describe all other issues you intend to raise at the pre-election hearing. <ol style="list-style-type: none"> Petition should be dismissed until all unfair labor practices (ULP) are resolved. See attached list. Discriminatees should vote in election. Election to be held by mail to allow discriminatees to vote. 					
7. The employer must provide the following lists which must be alphabetized (overall or by department) in the format specified at www.nlr.gov/sites/default/files/attachments/basic-page/node-4559/Optional Forms for Voter List.docx . (a) A list containing the full names, work locations, shifts and job classification of all individuals in the proposed unit as of the payroll period immediately preceding the filing of the petition who remain employed as of the date of the filing of the petition. (Attachment B) (b) If the employer contends that the proposed unit is inappropriate the employer must provide (1) a separate list containing the full names, work locations, shifts and job classifications of all individuals that it contends must be added to the proposed unit, if any to make it an appropriate unit, (Attachment C) and (2) a list containing the full names of any individuals it contends must be excluded from the proposed unit to make it an appropriate unit. (Attachment D)					
8a. State your position with respect to the details of any election that may be conducted in this matter. Type: <input type="checkbox"/> Manual <input checked="" type="checkbox"/> Mail <input type="checkbox"/> Mixed Manual/Mail					
8b. Date(s) After ULPs are resolved.	8c. Time(s)	8d. Location(s)			
8e. Eligibility Period (e.g. special eligibility formula) After ULPs are resolved.	8f. Last Payroll Period Ending Date	8g. Length of payroll period <input type="checkbox"/> Weekly <input type="checkbox"/> Biweekly <input type="checkbox"/> Other (specify length)			
9. Representative who will accept service of all papers for purposes of the representation proceeding					
9a. Full name and title of authorized representative Regina C. Hertzig, Esquire- Cleary, Josem & Trigiani, LLP	9b. Signature of authorized representative /s/ Regina C. Hertzig	9c. Date 2/13/23			
9d. Address (Street and number, city, state, and ZIP code) 325 Chestnut Street, Suite 200, Philadelphia, PA 19106			9e. e-Mail Address rhertzig@cjtlaw.org		
9f. Business Phone No.: 215-735-9099	9g. Fax No. 215-640-3201	9h. Cell No.			

WILLFUL FALSE STATEMENTS ON THIS PETITION CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)**PRIVACY ACT STATEMENT**

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. Section 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing representation proceedings. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. 74942-43 (December 13, 2006). The NLRB will further explain these uses upon request. Failure to supply the information requested by this form may preclude you from litigating issues under 102.66(d) of the Board's Rules and Regulations and may cause the NLRB to refuse to further process a representation case or may cause the NLRB to issue you a subpoena and seek enforcement of the subpoena in federal court.

ATTACHMENT TO POSITION STATEMENT**Case No. 04-RD-311366**

6.1. Petition should be dismissed until all unfair labor practices are resolved.

04-CA-291282

04-CA-291283

04-CA-291285

04-CA-291287

04-CA-291289

04-CA-291325

04-CA-291361

EXHIBIT NO.: B-5 MARKED: X RECEIVED: X REJECTED :
WITHDRAWN: NO OF PAGES: 1 DATE: 02/23/23
CASE NO: 04-RD-311366 CASE NAME: GFP Mobile
REPORTER: B.Weirich

Case No.

Date Filed

RESPONSIVE STATEMENT OF POSITION - RC, RD or RM PETITION

INSTRUCTIONS: If a party has submitted and served on you a timely Statement of Position to an RC, RD or RM petition, the Petitioner must submit this Responsive Statement of Position to an NLRB Office in the Region in which the petition was filed and serve it and any attachments on each party named in the petition in this case such that it is received by noon local time, three business days prior to the hearing date specified in the Notice of Hearing. A separate form must be completed for each timely filed and properly served Statement of Position received by the Petitioner. The Petitioner-Employer in a RM case is required to file this Responsive Statement of Position and include an appropriate employee list without regard to whether another party has filed a Statement of Position.

This Responsive Statement of Position is filed by the Petitioner in response to a Statement of Position received from the following party:

The Employer

GFP Mobile Mix Supply LLC

An Intervenor/Union

Internation Union of Operating Engineers Local 542

1a. Full Name of Party Filing Responsive Statement of Position

Vance Pennington

1c. Business Phone**1d. Cell No.**

(484) 889-7799

1e. Fax No.**1f. E-Mail Address**

vpennington88@gmail.com

1b. Address (Street and Number, City, State and ZIP Code)

162 Garner Drive, Avondale, PA 19311

2. Identify all issues raised in the other party's Statement of Position that you dispute and describe the basis of your dispute:**a. EMPLOYER NAME/IDENTITY** [Box 1a of Statement of Position Form NLRB-505 and Questionnaire on Commerce Information]☒ No Dispute (no further response required) ☐ Dispute (response required below)

Response to Statement of Position:

b. JURISDICTION [Box 2 of Statement of Position Form NLRB-505 and Questionnaire on Commerce Information]☒ No Dispute (no further response required) ☐ Dispute (response required below)

Response to Statement of Position:

c. APPROPRIATENESS OF UNIT [Boxes 3, 3a and 3b of Statement of Position Form NLRB-505]☒ No Dispute (no further response required) ☐ Dispute (response required below)

Response to Statement of Position:

Agree that the description should match.

d. INDIVIDUAL ELIGIBILITY [Box 4 of Statement of Position Form NLRB-505]☒ No Dispute (no further response required) ☐ Dispute (response required below)

Response to Statement of Position:

e. BARS TO ELECTION [Box 5 of Statement of Position Form NLRB-505]☐ No Dispute (no further response required) ☒ Dispute (response required below)

Response to Statement of Position:

Election to be held separately while unfair labor charges are being resolved.

f. ALL OTHER ISSUES [Box 6 of Statement of Position Form NLRB-505]☐ No Dispute (no further response required) ☒ Dispute (response required below)

Response to Statement of Position:

Unfair labor practices should be resolved separately. Active payroll employee votes only.

Election to be held manually.

g. ELECTION DETAILS [Boxes 8a, 8b, 8c, 8d, 8e, 8f, and 8g of Statement of Position Form NLRB-505]☐ No Dispute (no further response required) ☒ Dispute (response required below)

Response to Statement of Position:

Unfair labor practices resolved separately.

Full Name and Title of Authorized Representative

Vance Pennington Operator/Driver

Signature of Authorized Representative**Date**

02/16/2023

WILLFUL FALSE STATEMENTS ON THIS PETITION CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001) PRIVACY ACT STATEMENT

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. Section 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing representation proceedings. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. 74942-43 (December 13, 2006). The NLRB will further explain these uses upon request. Failure to supply the information requested by this form may preclude you from litigating issues under 102.66(d) of the Board's Rules and Regulations and may cause the NLRB to refuse to further process a representation case or may cause the NLRB to issue you a subpoena and seek enforcement of the subpoena in federal court.

Please fill all necessary fields on this form PRIOR to digitally signing. To make changes after the form has been signed, right-click on the signature field.

EXHIBIT NO.: B-6 MARKED: X RECEIVED: X REJECTED :
WITHDRAWN: NO OF PAGES: 2 DATE: 02/23/23
CASE NO: 04-RD-311366 CASE NAME: GFP Mobile
REPORTER: B.Weirich

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 4**

GFP Mobile Mix Supply LLC

Employer

and

Case 04-RC-286591

**International Union of Operating Engineers, Local
542**

Petitioner

TYPE OF ELECTION: STIPULATED

CERTIFICATION OF REPRESENTATIVE

An election has been conducted under the Board's Rules and Regulations. The Tally of Ballots shows that a collective-bargaining representative has been selected. No timely objections have been filed.

As authorized by the National Labor Relations Board, it is certified that a majority of the valid ballots has been cast for

International Union of Operating Engineers, Local 542

and that it is the exclusive collective-bargaining representative of the employees in the following appropriate unit:

Unit: INCLUDED: All full-time and regular part-time volumetric concrete truck drivers and operators employed by the Employer at its 14 Hadco Road, Wilmington, DE facility.

EXCLUDED: All other employees, clerical employees, professional employees, guards and supervisors as defined in the Act.



February 1, 2022

/s/ Thomas Goonan

Thomas Goonan
Regional Director, Region 4
National Labor Relations Board

Attachment: Notice of Bargaining Obligation

NOTICE OF BARGAINING OBLIGATION

In the recent representation election, a labor organization received a majority of the valid votes cast. Except in unusual circumstances, unless the results of the election are subsequently set aside in a post-election proceeding, the employer's legal obligation to refrain from unilaterally changing bargaining unit employees' terms and conditions of employment begins on the date of the election.

The employer is not precluded from changing bargaining unit employees' terms and conditions during the pendency of post-election proceedings, **as long as** the employer (a) gives sufficient notice to the labor organization concerning the proposed change(s); (b) negotiates in good faith with the labor organization, upon request; and (c) good faith bargaining between the employer and the labor organization leads to agreement or overall lawful impasse.

This is so even if the employer, or some other party, files objections to the election pursuant to Section 102.69 of the Rules and Regulations of the National Labor Relations Board (the Board). If the objections are later overruled and the labor organization is certified as the employees' collective-bargaining representative, the employer's obligation to refrain from making unilateral changes to bargaining unit employees' terms and conditions of employment begins on the date of the election, not on the date of the subsequent decision by the Board or court. Specifically, the Board has held that, absent exceptional circumstances,¹ an employer acts at its peril in making changes in wages, hours, or other terms and conditions of employment during the period while objections are pending and the final determination about certification of the labor organization has not yet been made.

It is important that all parties be aware of the potential liabilities if the employer unilaterally alters bargaining unit employees' terms and conditions of employment during the pendency of post-election proceedings. Thus, typically, if an employer makes post-election changes in employees' wages, hours, or other terms and conditions of employment without notice to or consultation with the labor organization that is ultimately certified as the employees' collective-bargaining representative, it violates Section 8(a)(1) and (5) of the National Labor Relations Act since such changes have the effect of undermining the labor organization's status as the statutory representative of the employees. This is so even if the changes were motivated by sound business considerations and not for the purpose of undermining the labor organization. As a remedy, the employer could be required to: 1) restore the status quo ante; 2) bargain, upon request, with the labor organization with respect to these changes; and 3) compensate employees, with interest, for monetary losses resulting from the unilateral implementation of these changes, until the employer bargains in good faith with the labor organization, upon request, or bargains to overall lawful impasse.

¹ Exceptions may include the presence of a longstanding past practice, discrete event, or exigent economic circumstance requiring an immediate response.

OFFICIAL REPORT OF PROCEEDINGS
BEFORE THE
NATIONAL LABOR RELATIONS BOARD

Rejected Exhibit
B-4

In the Matter of:

Case No. : 04-RD-311366

GFP Mobile Mix Supply, LLC,

Employer,

and

Vance Pennington,

Petitioner,

And

IUOE Local 542,

Union

Place: Philadelphia, PA (via Zoom)

Dates: February 23, 2023

OFFICIAL REPORTERS

BURKE COURT REPORTING, LLC

64 Magnolia Place

Wayne, NJ 07470

(973) 692-0660

EXHIBIT NO.: B-4 MARKED: X RECEIVED: REJECTED : X
WITHDRAWN: NO OF PAGES: 3 DATE: 02/23/23
CASE NO: 04-RD-311366 CASE NAME: GFP Mobile
REPORTER: B.Weirich

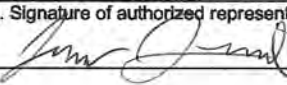
FORM NLRB-505
(12-20)UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD
STATEMENT OF POSITION**DO NOT WRITE IN THIS SPACE**

Case No.

Date Filed

INSTRUCTIONS: Submit this Statement of Position to an NLRB Office in the Region in which the petition was filed and serve it and all attachments on each party named in the petition in this case such that it is received by them by the date and time specified in the notice of hearing.

Note: Non-employer parties who complete this form are NOT required to complete items 8f or 8g below or to provide a commerce questionnaire or the lists described in item 7.

1a. Full name of party filing Statement of Position: GFP Mobile Mix Supply LLC		1c. Business Phone: 302-998-7687	1e. Fax No.: 302-998-7693
1b. Address (Street and number, city, state, and ZIP code): 14 Hadco Road, Wilmington, DE 19804		1d. Cell No.:	1f. e-Mail Address: stacey.papa@gfpcement.com
2. Do you agree that the NLRB has jurisdiction over the Employer in this case? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No (A completed commerce questionnaire (Attachment A) must be submitted by the Employer, regardless of whether jurisdiction is admitted)			
3. Do you agree that the proposed unit is appropriate? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No (If not, answer 3a and 3b.)			
a. State the basis for your contention that the proposed unit is not appropriate. (If you contend a classification should be excluded or included briefly explain why, such as shares a community of interest or are supervisors or guards.)			
b. State any classifications, locations, or other employee groupings that must be added to or excluded from the proposed unit to make it an appropriate unit. Added: Excluded:			
4. Other than the individuals in classifications listed in 3b, list any individual(s) whose eligibility to vote you intend to contest at the pre-election hearing in this case and the basis for contesting their eligibility.			
5. Is there a bar to conducting an election in this case? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If yes, state the basis for your position.			
6. Describe all other issues you intend to raise at the pre-election hearing.			
7. The employer must provide the following lists which must be alphabetized (overall or by department) in the format specified at http://www.nlr.gov/what-we-do/conduct-elections/representation-case-rules-effective-april-14-2011 (a) A list containing the full names, work locations, shifts and job classification of all individuals in the proposed unit as of the payroll period immediately preceding the filing of the petition who remain employed as of the date of the filing of the petition. (Attachment B) (b) If the employer contends that the proposed unit is inappropriate the employer must provide (1) a separate list containing the full names, work locations, shifts and job classifications of all individuals that it contends must be added to the proposed unit, if any to make it an appropriate unit, (Attachment C) and (2) a list containing the full names of any individuals it contends must be excluded from the proposed unit to make it an appropriate unit. (Attachment D).			
8a. State your position with respect to the details of any election that may be conducted in this matter. Type: <input type="checkbox"/> Manual <input type="checkbox"/> Mail <input type="checkbox"/> Mixed Manual/Mail			
8b. Date(s): March 1, 2023	8c. Time(s): 3:30 pm - 4:30 pm	8d. Location(s): 14 Hadco Road, Wilmington, DE 19804	
8e. Eligibility Period (e.g. special eligibility formula):	8f. Last Payroll Period Ending Date: February 10, 2023	8g. Length of payroll period <input checked="" type="checkbox"/> Weekly <input type="checkbox"/> Biweekly <input type="checkbox"/> Other (specify length)	
9. Representative who will accept service of all papers for purposes of the representation proceeding			
9a. Full name and title of authorized representative James Leonard, Counsel		9b. Signature of authorized representative 	9c. Date 2/14/23
9d. Address (Street and number, city, state, and ZIP code) 851 DuPortail Road, Second Floor Chesterbrook, PA 19087		9e. e-Mail Address jleonard@paisnerlitvin.com	
9f. Business Phone No.: 484-436-2122	9g. Fax No.:	9h. Cell No.: 845-269-1701	

WILLFUL FALSE STATEMENTS ON THIS PETITION CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)**PRIVACY ACT STATEMENT**

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. Section 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing representation proceedings. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. 74942-43 (December 13, 2006). The NLRB will further explain these uses upon request. Failure to supply the information requested by this form may preclude you from litigating issues under 102.66(d) of the Board's Rules and Regulations and may cause the NLRB to refuse to further process a representation case or may cause the NLRB to issue you a subpoena and seek enforcement of the subpoena in federal court.

FORM NLRB-5081
(3-11)

NATIONAL LABOR RELATIONS BOARD

QUESTIONNAIRE ON COMMERCE INFORMATION

Please read carefully, answer all applicable items, and return to the NLRB Office.
If additional space is required, please add a page and identify item number.

CASE NAME		CASE NUMBER	
1. EXACT LEGAL TITLE OF ENTITY (As filed with State and/or stated in legal documents forming entity) GFP Mobile Mix Supply LLC			
2. TYPE OF ENTITY <input type="checkbox"/> CORPORATION <input checked="" type="checkbox"/> LLC <input type="checkbox"/> LLP <input type="checkbox"/> PARTNERSHIP <input type="checkbox"/> SOLE PROPRIETORSHIP <input type="checkbox"/> OTHER (Specify)			
3. IF A CORPORATION OR LLC A. STATE OF INCORPORATION OR FORMATION B. NAME, ADDRESS, AND RELATIONSHIP (e.g. parent, subsidiary) OF ALL RELATED ENTITIES Delaware			
4. IF AN LLC OR ANY TYPE OF PARTNERSHIP, FULL NAME AND ADDRESS OF ALL MEMBERS OR PARTNERS Stacey Papa - 14 Hadco Rd., Wilmington, DE 19804 / Laura Fedale - 14 Hadco Rd., Wilmington, DE 19804			
5. IF A SOLE PROPRIETORSHIP, FULL NAME AND ADDRESS OF PROPRIETOR N/A			
6. BRIEFLY DESCRIBE THE NATURE OF YOUR OPERATIONS (Products handled or manufactured, or nature of services performed) Concrete Supplier			
7A. PRINCIPAL LOCATION 14 Hadco Rd. Wilmington, DE 19804		7B. BRANCH LOCATIONS	
8. NUMBER OF PEOPLE PRESENTLY EMPLOYED A. TOTAL B. AT THE ADDRESS INVOLVED IN THIS MATTER 11 11			
9. DURING THE MOST RECENT (Check the appropriate box): <input type="checkbox"/> CALENDAR <input type="checkbox"/> 12 MONTHS or <input checked="" type="checkbox"/> FISCAL YEAR FY DATES			
A. Did you provide services valued in excess of \$50,000 directly to customers outside your State? If no, indicate actual value.		YES	NO
B. If you answered no to 9A, did you provide services valued in excess of \$50,000 to customers in your State who purchased goods valued in excess of \$50,000 from directly outside your State? If no, indicate the value of any such services you provided.		X	X
C. If you answered no to 9A and 9B, did you provide services valued in excess of \$50,000 to public utilities, transit systems, newspapers, health care institutions, broadcasting stations, commercial buildings, educational institutions, or retail concerns? If less than \$50,000, indicate amount.		X	X
D. Did you sell goods valued in excess of \$50,000 directly to customers located outside your State? If less than \$50,000, indicate amount.		X	X
E. If you answered no to 9D, did you sell goods valued in excess of \$50,000 directly to customers located inside your State who purchased other goods valued in excess of \$50,000 from directly outside your State? If less than \$50,000, indicate amount.		X	X
F. Did you purchase and receive goods valued in excess of \$50,000 from directly outside your State? If less than \$50,000, indicate amount.		X	X
G. Did you purchase and receive goods valued in excess of \$50,000 from enterprises who received the goods directly from points outside your State? If less than \$50,000, indicate amount.		X	X
H. Gross Revenues from all sales or performance of services (Check the largest amount): <input type="checkbox"/> \$100,000 <input type="checkbox"/> \$250,000 <input type="checkbox"/> \$500,000 <input checked="" type="checkbox"/> \$1,000,000 or more If less than \$100,000, indicate amount.			
I. Did you begin operations within the last 12 months? If yes, specify date:		X	X
10. ARE YOU A MEMBER OF AN ASSOCIATION OR OTHER EMPLOYEE GROUP THAT ENGAGES IN COLLECTIVE BARGAINING? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO (If yes, name and address of association or group)			
11. REPRESENTATIVE BEST QUALIFIED TO GIVE FURTHER INFORMATION ABOUT YOUR OPERATIONS			
NAME Dominic J. Papa	TITLE President	E-MAIL ADDRESS dominic.papa@gfpcement.com	TEL. NUMBER 302-998-7687
12. AUTHORIZED REPRESENTATIVE COMPLETING THIS QUESTIONNAIRE			
NAME AND TITLE Dominic J. Papa / President	SIGNATURE 	E-MAIL ADDRESS dominic.papa@gfpcement.com	DATE 2/10/2023

PRIVACY ACT STATEMENT

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing representation and/or unfair labor practice proceedings and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary. However, failure to supply the information may cause the NLRB to refuse to process any further a representation or unfair labor practice case, or may cause the NLRB to issue you a subpoena and seek enforcement of the subpoena in federal court.

INITIAL LIST (Filed with Statement of Position)**Employer Name:** GFP Mobile Mix Supply LLC**Case No.** 04-RD-311366**Attachment B – List of Employees in the Proposed Unit**

EMPLOYEE NAME	JOB CLASSIFICATION	WORK LOCATION	SHIFT ¹
(b) (6), (b) (7)(C)	Driver	14 Hadco Road	Day
	Driver	14 Hadco Road	Day
	Driver	14 Hadco Road	Day
	Driver	14 Hadco Road	Day
	Driver	14 Hadco Road	Day
	Driver	14 Hadco Road	Day
	Driver	14 Hadco Road	Day
	Driver	14 Hadco Road	Day

¹ Employees' shifts vary based on customer demand. A typical shift is from approximately 7:30 a.m. to 3:30 p.m.

CLEARY, JOSEM & TRIGIANI

CLEARY, JOSEM & TRIGIANI LLP
Constitution Place
325 Chestnut Street, Suite 200
Philadelphia, PA 19106
215.735.9099
Fax: 215.640.3201
www.cjtlaw.org
E-Mail: labor@cjtlaw.org



VIA E-FILING

March 2, 2023

Emily DeSa, Acting Regional Director
National Labor Relations Board
Region 4
100 East Penn Square, Suite 403
Philadelphia, PA 19017-6293

**Re: Vance Pennington and International Union of
Operating Engineers Local 542
Case No.: 04-RD-311366 (Post-Hearing Brief)**

Dear Ms. DeSa:

Please accept this letter brief in lieu of a more formal writing as the Union's post-hearing brief. The Union submits that the petition should be dismissed. It is well-settled that regional directors retain the discretion, in appropriate circumstances, to dismiss an election petition, subject to reinstatement, after determining that pending charges are meritorious and, if proven, would require the dismissal of the petition. *Rieth-Riley Construction Co.*, 371 NLRB No. 109, slip op. at 2-4 (2022). This case presents a textbook example of when a decertification petition should be dismissed considering the Employer's numerous and egregious unfair labor practices, including the terminations of five of the seven bargaining unit members within months of the election.

The NLRB in *Rieth-Riley*, slip op. at 2, fn.8, applied the *Master Slack*, 271 NLRB 78, 84 (1984) criteria for dismissing election petitions when pending and unremedied unfair labor charges exist are:

(1) the length of time between the unfair labor practices and the withdrawal of recognition or filing of the petition; (2) the nature of the illegal acts, including the possibility of their detrimental or lasting effect on employees; (3) any possible tendency to cause employee disaffection from the union; and (4) the effect of the unlawful conduct on employee morale, organizational activities, and membership in the union. *Id.*

The Board in *Rieth-Riley* noted that the "key to finding *Master Slack* causal nexus is whether the unlawful conduct at issue had-as here-a pervasive effect on the bargaining unit." Slip op at 5, fn.24. Discharges should result in a *Master Slack* finding of a causal connection between the unfair labor practices and the decertification petition. Indeed, the Employer's

discharge of active union adherents would likely “have a lasting inhibitive effect on a substantial percentage of the workforce” and “remain in [employees’] memories for a long period. See, *Penn Tank Lines*, 336 NLRB 1066, 1067-1068 (2001), citing *NLRB v. Entwistle Mfg. Co.*, 120 F.2d 532, 536 (4th Cir. 1941); *Koons Ford of Annapolis*, 282 NLRB 506, 508 (1986), *enfd.* 833 F.2d 310 (4th Cir. 1987); *NLRB v. Jamaica Towing*, 632 F.2d 208, 213 (2d Cir. 1980).

In this case, there was barely a year from the terminations (and in some cases less than a year) to the filing of the decertification petition. It cannot be disputed that the discharge of an active union supporter is exceptionally coercive and not likely to be forgotten. This unlawful conduct “goes to the very heart of the Act,” and reinforces the employees’ fear that they will lose employment if they persist in union activity. *Hillaeah Hospital*, 343 NLRB 391(2012)

Even Section 8(a)(3) discipline short of discharge is sufficient to have the petition dismissed. In *Wendt Corp.*, 371 NLRB No. 159, slip op at 4 (2022), the Board found *Master Slack* causation evidenced by a three-day suspension of a key union leader. “The targeting of Hudson, the paramount leader of the organizing campaign also admired by his unit peers for his skilled work, is a particularly indelible reminder to the other unit employees of the negative consequences that befall union adherents.” *Id.*

The decertification petition should be dismissed. The Region has found merit to seven charges and is seeking relief under Section 10(j). The Employer violated the Act by discharging (b) (6), (b) (7)(C) and reducing (b) (6), (b) (7)(C) hours to zero. All of these actions were perpetrated by (b) (6), (b) (7)(C). The discharges, along with the threats (b) (6) made, certainly establish causation.

Alternatively, the election should be delayed until the Region has an opportunity to finish its investigation of the pending unfair labor practice charges.

Should the Region decide to move forward with an election, the Union submits that the election be held via a mail ballot

The mail ballot election should be scheduled as follows:

March 15, 2023- Ballots sent out.

April 5, 2023- Ballots returned.

April 15, 2023- Ballots counted.

¹ Although the Region has not found merit to 04-CA-29237, the Union intends to appeal this finding as (b) (6), (b) (7)(C) was discharged in retaliation for exercising (b) (6) section 7 rights. Moreover, the discharges or hour reduction of five of the seven members of the original bargaining unit undoubtedly had a chilling effect on the Union’s support whether or not the Region found sufficient evidence that (b) (6), (b) (7)(C) was discharged in retaliation for exercising (b) (6) Section 7 rights.

The parties agree to the Unit:

Included: All full-time and regular part-time volumetric concrete truck drivers by the Employer at its 14 Hadco Rd. Wilmington, Delaware facility.

Excluded: All other employees, office clerical employees, guards and supervisors as defined in the Act.

Should the Regional Director order a manual election, the Union submits that the election should be held in a public place so as not to subject the victims of the Employer's illegal behavior to the trauma of reentering the facility. The Union suggests the Elsmere Public Library, 30 Spruce Ave, Wilmington, Delaware (2.4 miles and 7 minutes by car from the Employer's facility), or the Five Points Fire Company, 209 S. Maryland Ave. Wilmington, Delaware (2.6 miles and 7 minutes by car from the Employer's facility). The Employer's request for the election in the upstairs lunchroom should be rejected because it is too close to the Human Resource Director's' offices.

In conclusion, I reiterate that the petition should be dismissed or, in the alternative, should be delayed until the Region has an opportunity to decide the merits of the pending unfair labor practices.

Thank you for your attention in this matter.

Sincerely,

Regina C. Hertzog

REGINA C. HERTZIG

cc: **VIA EMAIL ONLY**

Brett Toomey

John Epperson

Jason Terebey

James Leonard, Esq.

Byron Andrus, Esq.

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD
RC PETITION

DO NOT WRITE IN THIS SPACE

Case No.

04-RC-286591

Date Filed

11/19/21

INSTRUCTIONS: Unless e-Filed using the Agency's website, www.nlrb.gov/, submit an original of this Petition to an NLRB office in the Region in which the employer concerned is located. The petition must be accompanied by both a showing of interest (see 6b below) and a certificate of service showing service on the employer and all other parties named in the petition of: (1) the petition; (2) Statement of Position form (Form NLRB-505); and (3) Description of Representation Case Procedures (Form NLRB 4B12). The showing of interest should only be filed with the NLRB and should not be served on the employer or any other party.

1. PURPOSE OF THIS PETITION: RC-CERTIFICATION OF REPRESENTATIVE - A substantial number of employees wish to be represented for purposes of collective bargaining by Petitioner and Petitioner desires to be certified as representative of the employees. The Petitioner alleges that the following circumstances exist and requests that the National Labor Relations Board proceed under its proper authority pursuant to Section 9 of the National Labor Relations Act.

2a. Name of Employer: GFP Mobile Mix Supply		2b. Address(es) of Establishment(s) involved (Street and number, City, State, ZIP code): 14 Hadco Rd Wilmington, DE 19804	
3a. Employer Representative - Name and Title: Dennis Gosert		3b. Address (if same as 2b - state same): same	
3c. Tel. No. 302-998-7687	3d. Cell No.	3e. Fax No.	3f. E-Mail Address dominic.papa@gfpcement.com
4a. Type of Establishment (Factory, mine, wholesaler, etc.) concrete company		4b. Principal Product or Service cement	5a. City and State where unit is located: Wilmington DE
5b. Description of Unit Involved: Included: Driver, Operator Excluded: clerical, guards and supervisors as defined by the act		6a. Number of Employees in Unit: 10 6b. Do a substantial number (30% or more) of the employees in the unit wish to be represented by the Petitioner? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
Check One: <input type="checkbox"/> 7a. Request for recognition as Bargaining Representative was made on (Date) _____ and Employer declined recognition on or about (Date) _____ (If no reply received, so state). <input type="checkbox"/> 7b. Petitioner is currently recognized as Bargaining Representative and desires certification under the Act.			
8a. Name of Recognized or Certified Bargaining Agent (if none, so state)		8b. Address:	
8c. Tel. No.	8d. Cell No.	8e. Fax No.	8f. E-Mail Address
8g. Affiliation, if any:		8h. Date of Recognition or Certification	8i. Expiration Date of Current or Most Recent Contract, if any (Month, Day, Year)
9. Is there now a strike or picketing at the Employer's establishment(s) involved? <u>No</u> <input checked="" type="radio"/> If so, approximately how many employees are participating? _____ (Name of Labor Organization) _____, has picketed the Employer since (Month, Day, Year) _____			
10. Organizations or individuals other than Petitioner and those named in Items 8 and 9, which have claimed recognition as representatives and other organizations and individuals known to have a representative interest in any employees in the unit described in item 5b above. (If none, so state)			
10a. Name	10b. Address	10c. Tel. No.	10d. Cell No.
		10e. Fax No.	10f. E-Mail Address
11. Election Details: If the NLRB conducts an election in this matter, state your position with respect to any such election: Mail		11a. Election Type: <input type="checkbox"/> Manual <input checked="" type="checkbox"/> Mail <input type="checkbox"/> Mixed Manual/Mail	
11b. Election Date(s): 12/2/21	11c. Election Time(s): mail	11d. Election Location(s): mail	
12a. Full Name of Petitioner (including local name and number): International Union of Operating Engineers Local 542		12b. Address (street and number, city, State and ZIP code): 1375 Virginia Drive Fort Washington PA, 19034	
12c. Full name of national or international labor organization of which Petitioner is an affiliate or constituent (if none, so state): Affiliated with the AFL-CIO			
12d. Tel. No. 215-542-7500	12e. Cell No.	12f. Fax No.	12g. E-Mail Address matt.toomey@iuoe542.com
13. Representative of the Petitioner who will accept service of all papers for purposes of the representation proceeding.			
13a. Name and Title: Matt Toomey		13b. Address (street and number, city, State and ZIP code): 1375 Virginia Drive	
13c. Tel. No.	13d. Cell No. 215-317-1606	13e. Fax No.	13f. E-Mail Address matt.toomey@iuoe542.com
I declare that I have read the above petition and that the statements are true to the best of my knowledge and belief.			
Name (Print) Matt Toomey	Signature Matt Toomey	Title Business agent	Date 11/19/21

WILLFUL FALSE STATEMENTS ON THIS PETITION CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)

PRIVACY ACT STATEMENT

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing representation and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary; however, failure to supply the information may cause the NLRB to decline to invoke its processes.



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

REGION 4
100 E Penn Square
Suite 403
Philadelphia, PA 19107

Agency Website: www.nlr.gov
Telephone: (215)597-7601
Fax: (215)597-7658



Download
NLRB
Mobile App

November 22, 2021

URGENT

dominic.papa@gfpcement.com

Dennis Gosert
GFP Mobile Mix Supply
14 Hadco Road
Wilmington, DE 19804

Re: GFP Mobile Mix Supply
Case 04-RC-286591

Dear Mr. Gosert:

Enclosed is a copy of a petition that International Union of Operating Engineers Local 542 filed with the National Labor Relations Board (NLRB) seeking to represent certain of your employees. After a petition is filed, the employer is required to promptly take certain actions so please read this letter carefully to make sure you are aware of the employer's obligations. This letter tells you how to contact the Board agent who will be handling this matter, about the requirement to post and distribute the Notice of Petition for Election, the requirement to complete and serve a Statement of Position Form, the Petitioner's requirement to complete and serve a Responsive Statement of Position Form, a scheduled hearing in this matter, other information needed including a voter list, your right to be represented, and NLRB procedures, including how to submit documents to the NLRB.

Investigator: This petition will be investigated by Field Examiner DONNA M. BERNINI-MARTIN whose telephone number is (215)597-7647. The Board agent will contact you shortly to discuss processing the petition. If you have any questions, please do not hesitate to call the Board agent. If the agent is not available, you may contact Supervisory Attorney NOELLE M. REESE whose telephone number is (215)597-0729. The Board agent may also contact you and the other party or parties to schedule a conference meeting or telephonic or video conference for some time before the close of business the day following receipt of the final Responsive Statement(s) of Position. This will give the parties sufficient time to determine if any issues can be resolved prior to hearing or if a hearing is necessary. If appropriate, the NLRB attempts to schedule an election either by agreement of the parties or by holding a hearing and then directing an election.

Required Posting and Distribution of Notice: You must post the enclosed Notice of Petition for Election by **Monday, November 29, 2021** in conspicuous places, including all places where notices to employees are customarily posted. The Notice of Petition for Election must be posted so all pages are simultaneously visible. If you customarily communicate

electronically with employees in the petitioned-for unit, you must also distribute the notice electronically to them. You must maintain the posting until the petition is dismissed or withdrawn or this notice is replaced by the Notice of Election. Posting and distribution of the Notice of Petition for Election will inform the employees whose representation is at issue and the employer of their rights and obligations under the National Labor Relations Act in the representation context. Failure to post or distribute the notice may be grounds for setting aside an election if proper and timely objections are filed.

Required Statement of Position: In accordance with Section 102.63(b) of the Board's Rules, the employer is required to complete the enclosed Statement of Position form (including the attached Commerce Questionnaire), have it signed by an authorized representative, and file a completed copy (with all required attachments) with this office and serve it on all parties named in the petition such that it is received by them by **noon Eastern Time on Friday, December 3, 2021**. This form solicits information that will facilitate entry into election agreements or streamline the pre-election hearing if the parties are unable to enter into an election agreement. **This form must be e-Filed, but unlike other e-Filed documents, will *not* be timely if filed on the due date but after noon Eastern Time.** If you have questions about this form or would like assistance in filling out this form, please contact the Board agent named above.

List(s) of Employees: The employer's Statement of Position must include a list of the full names, work locations, shifts, and job classifications of all individuals in the proposed unit as of the payroll period preceding the filing of the petition who remain employed at the time of filing. If the employer contends that the proposed unit is inappropriate, the employer must separately list the full names, work locations, shifts and job classifications of all individuals that it contends must be added to the proposed unit to make it an appropriate unit. The employer must also indicate those individuals, if any, whom it believes must be excluded from the proposed unit to make it an appropriate unit. These lists must be alphabetized (overall or by department). Unless the employer certifies that it does not possess the capacity to produce the lists in the required form, the lists must be in a table in a Microsoft Word file (.doc or .docx) or a file that is compatible with Microsoft Word, the first column of the table must begin with each employee's last name, and the font size of the list must be the equivalent of Times New Roman 10 or larger. That font does not need to be used but the font must be that size or larger. A sample, optional form for the list is provided on the NLRB website at [www.nlr.gov/sites/default/files/attachments/basic-page/node-4559/Optional Forms for Voter List.docx](http://www.nlr.gov/sites/default/files/attachments/basic-page/node-4559/Optional%20Forms%20for%20Voter%20List.docx)

Failure to Supply Information: Failure to supply the information requested by this form may preclude you from litigating issues under Section 102.66(d) of the Board's Rules and Regulations. Section 102.66(d) provides as follows:

A party shall be precluded from raising any issue, presenting any evidence relating to any issue, cross-examining any witness concerning any issue, and presenting argument concerning any issue that the party failed to raise in its timely Statement of Position or to place in dispute in response to another party's Statement of Position or response, except that no party shall be precluded from

contesting or presenting evidence relevant to the Board's statutory jurisdiction to process the petition. Nor shall any party be precluded, on the grounds that a voter's eligibility or inclusion was not contested at the pre-election hearing, from challenging the eligibility of any voter during the election. If a party contends that the proposed unit is not appropriate in its Statement of Position but fails to specify the classifications, locations, or other employee groupings that must be added to or excluded from the proposed unit to make it an appropriate unit, the party shall also be precluded from raising any issue as to the appropriateness of the unit, presenting any evidence relating to the appropriateness of the unit, cross-examining any witness concerning the appropriateness of the unit, and presenting argument concerning the appropriateness of the unit. If the employer fails to timely furnish the lists of employees described in §§ 102.63(b)(1)(iii), (b)(2)(iii), or (b)(3)(iii), the employer shall be precluded from contesting the appropriateness of the proposed unit at any time and from contesting the eligibility or inclusion of any individuals at the pre-election hearing, including by presenting evidence or argument, or by cross-examination of witnesses.

Responsive Statement of Position: In accordance with Section 102.63(b) of the Board's Rules, following timely filing and service of an employer's Statement of Position, the petitioner is required to complete the enclosed Responsive Statement of Position form, have it signed by an authorized representative, and file a completed copy with any necessary attachments, with this office and serve it on all parties named in the petition responding to the issues raised in the employer's Statement of Position, such that it is received no later than **noon Eastern Time on Wednesday, December 8, 2021.**

Notice of Hearing: Enclosed is a Notice of Representation Hearing to be conducted at **10:00 AM on Monday, December 13, 2021 by audioconference or videoconference, as appropriate,** if the parties do not voluntarily agree to an election. If a hearing is necessary, the hearing will run on consecutive days until concluded unless the regional director concludes that extraordinary circumstances warrant otherwise. Before the hearing begins, the NLRB will continue to explore potential areas of agreement with the parties in order to reach an election agreement and to eliminate or limit the costs associated with formal hearings.

Upon request of a party showing good cause, the regional director may postpone the hearing. A party desiring a postponement should make the request to the regional director in writing, set forth in detail the grounds for the request, and include the positions of the other parties regarding the postponement. E-Filing the request is required. A copy of the request must be served simultaneously on all the other parties, and that fact must be noted in the request.

Other Information Needed Now: Please submit to this office, as soon as possible, the following information needed to handle this matter:

- (a) A copy of any existing or recently expired collective-bargaining agreements, and any amendments or extensions, or any recognition agreements covering any of your employees in the unit involved in the petition (the petitioned-for unit);
- (b) The name and contact information for any other labor organization (union) claiming to represent any of the employees in the petitioned-for unit;
- (c) If potential voters will need notices or ballots translated into a language other than English, the names of those languages and dialects, if any.
- (d) If you desire a formal check of the showing of interest, you must provide an alphabetized payroll list of employees in the petitioned-for unit, with their job classifications, for the payroll period immediately before the date of this petition. Such a payroll list should be submitted as early as possible prior to the hearing. Ordinarily a formal check of the showing of interest is not performed using the employee list submitted as part of the Statement of Position.

Voter List: If an election is held in this matter, the employer must transmit to this office and to the other parties to the election, an alphabetized list of the full names, work locations, shifts, job classifications, and contact information (including home addresses, available personal email addresses, and available home and personal cellular telephone numbers) of eligible voters. Usually, the list must be furnished within 2 business days of the issuance of the Decision and Direction of Election or approval of an election agreement. I am advising you of this requirement now, so that you will have ample time to prepare this list. The list must be electronically filed with the Region and served electronically on the other parties. To guard against potential abuse, this list may not be used for purposes other than the representation proceeding, NLRB proceedings arising from it or other related matters.

Right to Representation: You have the right to be represented by an attorney or other representative in any proceeding before us. If you choose to be represented, your representative must notify us in writing of this fact as soon as possible by completing Form NLRB-4701, Notice of Appearance. This form is available on our website, www.nlr.gov, or at the Regional office upon your request.

If someone contacts you about representing you in this case, please be assured that no organization or person seeking your business has any “inside knowledge” or favored relationship with the NLRB. Their knowledge regarding this matter was only obtained through access to information that must be made available to any member of the public under the Freedom of Information Act.

Procedures: Pursuant to Section 102.5 of the Board’s Rules and Regulations, parties must submit all documentary evidence, including statements of position, exhibits, sworn statements, and/or other evidence, by electronically submitting (E-Filing) them through the Agency’s web site (www.nlr.gov). You must e-file all documents electronically or provide a written statement explaining why electronic submission is not possible or feasible. Failure to comply with Section 102.5 will result in rejection of your submission. The Region will make its determinations solely based on the documents and evidence properly submitted. All evidence

submitted electronically should be in the form in which it is normally used and maintained in the course of business (i.e., native format). Where evidence submitted electronically is not in native format, it should be submitted in a manner that retains the essential functionality of the native format (i.e., in a machine-readable and searchable electronic format). If you have questions about the submission of evidence or expect to deliver a large quantity of electronic records, please promptly contact the Board agent investigating the petition.

Information about the NLRB and our customer service standards is available on our website, www.nlr.gov, or from an NLRB office upon your request. We can provide assistance for persons with limited English proficiency or disability. Please let us know if you or any of your witnesses would like such assistance.

Very truly yours,

A handwritten signature in dark ink, appearing to read "Thomas Goonan". The signature is fluid and cursive, with the first name "Thomas" and last name "Goonan" clearly distinguishable.

Thomas Goonan
Regional Director

Enclosures

1. Petition
2. Notice of Petition for Election (Form 5492)
3. Notice of Representation Hearing
4. Description of Procedures in Certification and Decertification Cases (Form 4812)
5. Statement of Position form and Commerce Questionnaire (Form 505)
6. Responsive Statement of Position (Form 506)



National Labor Relations Board



NOTICE OF PETITION FOR ELECTION

This notice is to inform employees that International Union of Operating Engineers Local 542 has filed a petition with the National Labor Relations Board (NLRB), a Federal agency, in Case 04-RC-286591 seeking an election to become certified as the representative of the employees of GFP Mobile Mix Supply in the unit set forth below:

Included: Driver operators.

Excluded: Clerical, guards and supervisors as defined by the Act.

This notice also provides you with information about your basic rights under the National Labor Relations Act, the processing of the petition, and rules to keep NLRB elections fair and honest.

YOU HAVE THE RIGHT under Federal Law

- To self-organization
- To form, join, or assist labor organizations
- To bargain collectively through representatives of your own choosing
- To act together for the purposes of collective bargaining or other mutual aid or protection
- To refuse to do any or all of these things unless the union and employer, in a state where such agreements are permitted, enter into a lawful union-security agreement requiring employees to pay periodic dues and initiation fees. Nonmembers who inform the union that they object to the use of their payments for nonrepresentational purposes may be required to pay only their share of the union's costs of representational activities (such as collective bargaining, contract administration, and grievance adjustments).

PROCESSING THIS PETITION

Elections do not necessarily occur in all cases after a petition is filed. **NO FINAL DECISIONS HAVE BEEN MADE YET** regarding the appropriateness of the proposed unit or whether an election will be held in this matter. If appropriate, the NLRB will first see if the parties will enter into an election agreement that specifies the method, date, time, and location of an election and the unit of employees eligible to vote. If the parties do not enter into an election agreement, usually a hearing is held to receive evidence on the appropriateness of the unit and other issues in dispute. After a hearing, an election may be directed by the NLRB, if appropriate.

IF AN ELECTION IS HELD, it will be conducted by the NLRB by secret ballot and Notices of Election will be posted before the election giving complete details for voting.

ELECTION RULES

The NLRB applies rules that are intended to keep its elections fair and honest and that result in a free choice. If agents of any party act in such a way as to interfere with your right to a free election, the election can be set aside by the NLRB. Where appropriate the NLRB provides other remedies, such as reinstatement for employees fired for exercising their rights, including backpay from the party responsible for their discharge.

The following are examples of conduct that interfere with employees' rights and may result in setting aside the election:

- Threatening loss of jobs or benefits by an employer or a union
- Promising or granting promotions, pay raises, or other benefits, to influence an employee's vote by a party capable of carrying out such promises
- An employer firing employees to discourage or encourage union activity or a union causing them to be fired to encourage union activity
- Making campaign speeches to assembled groups of employees on company time, where attendance is mandatory, within the 24-hour period before the polls for the election first open or, if the election is conducted by mail, from the time and date the ballots are scheduled to be sent out by the Region until the time and date set for their return
- Incitement by either an employer or a union of racial or religious prejudice by inflammatory appeals
- Threatening physical force or violence to employees by a union or an employer to influence their votes

Please be assured that IF AN ELECTION IS HELD, every effort will be made to protect your right to a free choice under the law. Improper conduct will not be permitted. All parties are expected to cooperate fully with the NLRB in maintaining basic principles of a fair election as required by law. The NLRB as an agency of the United States Government does not endorse any choice in the election.

For additional information about the processing of petitions, go to www.nlr.gov or contact the NLRB at (215)597-7601.

THIS IS AN OFFICIAL GOVERNMENT NOTICE AND MUST NOT BE DEFACED BY ANYONE. IT MUST REMAIN POSTED WITH ALL PAGES SIMULTANEOUSLY VISIBLE UNTIL REPLACED BY THE NOTICE OF ELECTION OR THE PETITION IS DISMISSED OR WITHDRAWN.



National Labor Relations Board





UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 4



GFP Mobile Mix Supply Employer and International Union of Operating Engineers Local 542 Petitioner	Case 04-RC-286591
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NOTICE OF REPRESENTATION HEARING

The Petitioner filed the attached petition pursuant to Section 9(c) of the National Labor Relations Act. It appears that a question affecting commerce exists as to whether the employees in the unit described in the petition wish to be represented by a collective-bargaining representative as defined in Section 9(a) of the Act.

YOU ARE HEREBY NOTIFIED that, pursuant to Sections 3(b) and 9(c) of the Act, at 10:00 AM on **Monday, December 13, 2021** and on consecutive days thereafter until concluded, **by audioconference or videoconference, as appropriate**, a hearing will be conducted before a hearing officer of the National Labor Relations Board. At the hearing, the parties will have the right to appear in person or otherwise, and give testimony.

YOU ARE FURTHER NOTIFIED that, pursuant to Section 102.63(b) of the Board's Rules and Regulations, GFP Mobile Mix Supply must complete the Statement of Position and file it and all attachments with the Regional Director and serve it on the parties listed on the petition such that is received by them by no later than **noon** Eastern time on **Friday, December 3, 2021**. Following timely filing and service of a Statement of Position by GFP Mobile Mix Supply, the Petitioner must complete its Responsive Statement of Position(s) responding to the issues raised in the Employer's and/or Union's Statement of Position and file them and all attachments with the Regional Director and serve them on the parties named in the petition such that they are received by them no later than **noon** Eastern on **Wednesday, December 8, 2021**.

Pursuant to Section 102.5 of the Board's Rules and Regulations, all documents filed in cases before the Agency must be filed by electronically submitting (E-Filing) through the Agency's website (www.nlrb.gov), unless the party filing the document does not have access to the means for filing electronically or filing electronically would impose an undue burden. Documents filed by means other than E-Filing must be accompanied by a statement explaining why the filing party does not have access to the means for filing electronically or filing electronically would impose an undue burden. Detailed instructions for using the NLRB's E-Filing system can be found in the [E-Filing System User Guide](#).

The Statement of Position and Responsive Statement of Position must be E-Filed but, unlike other E-Filed documents, must be filed by **noon** Eastern on the due date in order to be timely. If an election agreement is signed by all parties and returned to the Regional Office before the due date of the Statement of Position, the Statement of Position and Responsive Statement of Position are not required to be filed. If an election agreement is signed by all parties and returned to the Regional office after the due date of the Statement of Position but before the due date of the Responsive Statement of Position, the Responsive Statement of Position is not required to be filed.

Dated: November 22, 2021

A handwritten signature in cursive script that reads "Thomas Goonan".

Thomas Goonan
REGIONAL DIRECTOR
NATIONAL LABOR RELATIONS BOARD
REGION 04
100 E Penn Square
Suite 403
Philadelphia, PA 19107

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD**

GFP Mobile Mix Supply Employer and International Union of Operating Engineers Local 542 Petitioner	Case 04-RC-286591
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AFFIDAVIT OF SERVICE OF: Petition dated November 19, 2021, Notice of Representation Hearing dated November 22, 2021, Description of Procedures in Certification and Decertification Cases (Form NLRB-4812), Notice of Petition for Election, and Statement of Position Form (Form NLRB-505).

I, the undersigned employee of the National Labor Relations Board, being duly sworn, say that on November 22, 2021, I served the above documents by electronic mail and regular mail upon the following persons, addressed to them at the following addresses:

Dennis Gosert
GFP Mobile Mix Supply
14 Hadco Road
Wilmington, DE 19804
dominic.papa@gfpcement.com

Matt Toomey, Business Agent
International Union of Operating
Engineers Local 542
1375 Virginia Drive
Fort Washington, PA 19034
matt.toomey@iuoe542.con

November 22, 2021

Date

Lorraine Y. Murray
Designated Agent of NLRB

Name

/s/ Lorraine Y. Murray

Signature

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD

**DESCRIPTION OF REPRESENTATION CASE PROCEDURES
IN CERTIFICATION AND DECERTIFICATION CASES**

The National Labor Relations Act grants employees the right to bargain collectively through representatives of their own choosing and to refrain from such activity. A party may file an RC, RD or RM petition with the National Labor Relations Board (NLRB) to conduct a secret ballot election to determine whether a representative will represent, or continue to represent, a unit of employees. An **RC** petition is generally filed by a union that desires to be certified as the bargaining representative. An **RD** petition is filed by employees who seek to remove the currently recognized union as the bargaining representative. An **RM** petition is filed by an employer who seeks an election because one or more individuals or unions have sought recognition as the bargaining representative, or based on a reasonable belief supported by objective considerations that the currently recognized union has lost its majority status. This form generally describes representation case procedures in RC, RD and RM cases, also referred to as certification and decertification cases.

Right to be Represented – Any party to a case with the NLRB has the right to be represented by an attorney or other representative in any proceeding before the NLRB. A party wishing to have a representative appear on its behalf should have the representative complete a Notice of Appearance (Form NLRB-4701), and E-File it at www.nlr.gov or forward it to the NLRB Regional Office handling the petition as soon as possible.

Filing and Service of Petition – A party filing an RC, RD or RM petition is required to serve a copy of its petition on the parties named in the petition along with this form and the Statement of Position form. The petitioner files the petition with the NLRB, together with (1) a certificate showing service of these documents on the other parties named in the petition, and (2) a showing of interest to support the petition. The showing of interest is not served on the other parties.

Notice of Hearing – After a petition in a certification or decertification case is filed with the NLRB, the NLRB reviews the petition, certificate of service, and the required showing of interest for sufficiency, assigns the petition a case number, and promptly sends letters to the parties notifying them of the Board agent who will be handling the case. In most cases, the letters include a Notice of Representation Hearing. Except in cases presenting unusually complex issues, this pre-election hearing is set for a date 14 business days (excluding weekends and federal holidays) from the date of service of the notice of hearing. Once the hearing begins, it will continue day to day until completed absent extraordinary circumstances. The Notice of Representation Hearing also sets the due date for filing and serving the Statement(s) of Position and the Responsive Statement of Position(s). Included with the Notice of Representation Hearing are the following: (1) copy of the petition, (2) this form, (3) Statement of Position for non-petitioning parties, (4) petitioner's Responsive Statement of Position, (5) Notice of Petition for Election, and (6) letter advising how to contact the Board agent who will be handling the case and discussing those documents.

Hearing Postponement: Requests to postpone the hearing are not routinely granted, but the regional director may postpone the hearing for good cause. A party wishing to request a postponement should make the request in writing and set forth in detail the grounds for the request. The request should include the positions of the other parties regarding the postponement. The request must be filed electronically ("E-Filed") on the Agency's website (www.nlr.gov) by following the instructions on the website. A copy of the request must be served simultaneously on all the other parties, and that fact must be noted in the request.

Statement of Position Form and List(s) of Employees – The Statement of Position form solicits commerce and other information that will facilitate entry into election agreements or streamline the pre-election hearing if the parties are unable to enter into an election agreement. In an **RC** or **RD** case, as part of its Statement of Position form, the employer also provides a list of the full names, work locations, shifts, and job classifications of all individuals in the proposed unit. If the employer contends that the proposed unit is not appropriate, the employer must separately list the same information for all individuals that the employer contends must be added to the proposed unit to make it an appropriate unit, and must further indicate those individuals, if any, whom it believes must be excluded from the proposed unit to make it an appropriate unit. These lists must be alphabetized (overall or by department). Unless the employer certifies that it does not possess the capacity to produce the lists in the required form, the lists must be in a table in a Microsoft Word file (.doc or .docx) or a file that is compatible with Microsoft Word, the first column of the table must begin with each employee's last name, and the font size of the list must be the equivalent of Times New Roman 10 or larger. That font does not need to be used but the font must be that size or larger. A sample, optional

form for the list is provided on the NLRB website at www.nlr.gov/sites/default/files/attachments/basic-page/node-4559/Optional Forms for Voter List.docx

Ordinarily the Statement of Position must be filed with the Regional Office and served on the other parties such that it is received by them by noon 8 business days from the issuance of the Notice of Hearing. The regional director may postpone the due date for filing and serving the Statement of Position for good cause. The Statement of Position form must be E-Filed but, unlike other E-Filed documents, will not be timely if filed on the due date but after noon in the time zone of the Region where the petition is filed. Consequences for failing to satisfy the Statement of Position requirement are discussed on the following page under the heading "Preclusion." A request to postpone the hearing will not automatically be treated as a request for an extension of the Statement of Position due date. If a party wishes to request both a postponement of the hearing and a postponement of the Statement of Position due date, the request must make that clear and must specify the reasons that postponements of both are sought.

Responsive Statement of Position – Petitioner's Responsive Statement(s) of Position solicits a response to the Statement(s) of Position filed by the other parties and further facilitates entry into election agreements or streamlines the preelection hearing. A petitioner must file a Responsive Statement of Position in response to each party's Statement of Position addressing each issue in each Statement of Position(s), if desired. In the case of an RM petition, the employer-petitioner must also provide commerce information and file and serve a list of the full names, work locations, shifts, and job classifications of all individuals in the proposed unit. Ordinarily, the Responsive Statement of Position must be electronically filed with the Regional Office and served on the other parties such that it is received by noon 3 business days prior to the hearing. The regional director may postpone the due date for filing and serving the Responsive Statement of Position for good cause. The Responsive Statement of Position form must be E-Filed but, unlike other E-Filed documents, will not be timely if filed on the due date but after noon in the time zone of the Region where the petition is filed. Consequences for failing to satisfy the Responsive Statement of Position requirement are discussed on the following page under the heading "Preclusion." A request to postpone the hearing will not automatically be treated as a request for an extension of the Responsive Statement of Position due date. If a party wishes to request both a postponement of the hearing and a Postponement of the Responsive Statement of Position due date, the request must make that clear and must specify the reasons that postponements of both are sought.

Posting and Distribution of Notice of Petition for Election – Within 5 business days after service of the notice of hearing, the employer must post the Notice of Petition for Election in conspicuous places, including all places where notices to employees are customarily posted, and must also distribute it electronically to the employees in the petitioned-for unit if the employer customarily communicates with these employees electronically. The employer must maintain the posting until the petition is dismissed or withdrawn, or the Notice of Petition for Election is replaced by the Notice of Election. The employer's failure properly to post or distribute the Notice of Petition for Election may be grounds for setting aside the election if proper and timely objections are filed.

Election Agreements – Elections can occur either by agreement of the parties or by direction of the regional director or the Board. Three types of agreements are available: (1) a Consent Election Agreement (Form NLRB-651); (2) a Stipulated Election Agreement (Form NLRB-652); and (3) a Full Consent Agreement (Form NLRB-5509). In the Consent Election Agreement and the Stipulated Election Agreement, the parties agree on an appropriate unit and the method, date, time, and place of a secret ballot election that will be conducted by an NLRB agent. In the Consent Agreement, the parties also agree that post-election matters (election objections or determinative challenged ballots) will be resolved with finality by the regional director; whereas in the Stipulated Election Agreement, the parties agree that they may request Board review of the regional director's post-election determinations. A Full Consent Agreement provides that the regional director will make final determinations regarding all pre-election and post-election issues.

Hearing Cancellation Based on Agreement of the Parties – The issuance of the Notice of Representation Hearing does not mean that the matter cannot be resolved by agreement of the parties. On the contrary, the NLRB encourages prompt voluntary adjustments and the Board agent assigned to the case will work with the parties to enter into an election agreement, so the parties can avoid the time and expense of participating in a hearing.

Hearing – A hearing will be held unless the parties enter into an election agreement approved by the regional director or the petition is dismissed or withdrawn.

Purpose of Hearing: The primary purpose of a pre-election hearing is to determine if a question of representation exists. A question of representation exists if a proper petition has been filed concerning a unit

appropriate for the purpose of collective bargaining or, in the case of a decertification petition, concerning a unit in which a labor organization has been certified or is being currently recognized by the employer as the bargaining representative.

Issues at Hearing: Issues that might be litigated at the pre-election hearing include: jurisdiction; labor organization status; bars to elections; unit appropriateness; expanding and contracting unit issues; inclusion of professional employees with nonprofessional employees; seasonal operation; potential mixed guard/non-guard unit; and eligibility formulas. At the hearing, the timely filed Statement of Position and Responsive Statement of Position(s) will be received into evidence. The hearing officer will not receive evidence concerning any issue as to which the parties have not taken adverse positions, except for evidence regarding the Board's jurisdiction over the employer and evidence concerning any issue, such as the appropriateness of the proposed unit, as to which the regional director determines that record evidence is necessary.

Preclusion: At the hearing, a party will be precluded from raising any issue, presenting any evidence relating to any issue, cross-examining any witness concerning any issue, and presenting argument concerning any issue that the party failed to raise in its timely Statement of Position or Responsive Statement of Position(s) or to place in dispute in timely response to another party's Statement of Position or response, except that no party will be precluded from contesting or presenting evidence relevant to the Board's statutory jurisdiction to process the petition. Nor shall any party be precluded, on the grounds that a voter's eligibility or inclusion was not contested at the pre-election hearing, from challenging the eligibility of any voter during the election. If a party contends that the proposed unit is not appropriate in its Statement of Position but fails to specify the classifications, locations, or other employee groupings that must be added to or excluded from the proposed unit to make it an appropriate unit, the party shall also be precluded from raising any issue as to the appropriateness of the unit, presenting any evidence relating to the appropriateness of the unit, cross examining any witness concerning the appropriateness of the unit, and presenting argument concerning the appropriateness of the unit. As set forth in §102.66(d) of the Board's rules, if the employer fails to timely furnish the lists of employees, the employer will be precluded from contesting the appropriateness of the proposed unit at any time and from contesting the eligibility or inclusion of any individuals at the pre-election hearing, including by presenting evidence or argument, or by cross-examination of witnesses.

Conduct of Hearing: If held, the hearing is usually open to the public and will be conducted by a hearing officer of the NLRB. Any party has the right to appear at any hearing in person, by counsel, or by other representative, to call, examine, and cross-examine witnesses, and to introduce into the record evidence of the significant facts that support the party's contentions and are relevant to the existence of a question of representation. The hearing officer also has the power to call, examine, and cross-examine witnesses and to introduce into the record documentary and other evidence. Witnesses will be examined orally under oath. The rules of evidence prevailing in courts of law or equity shall not be controlling. Parties appearing at any hearing who have or whose witnesses have disabilities falling within the provisions of Section 504 of the Rehabilitation Act of 1973, as amended, and 29 C.F.R. 100.503, and who in order to participate in this hearing need appropriate auxiliary aids, as defined in 29 C.F.R. 100.503, should notify the regional director as soon as possible and request the necessary assistance.

Official Record: An official reporter will make the only official transcript of the proceedings and all citations in briefs or arguments must refer to the official record. (Copies of exhibits should be supplied to the hearing officer and other parties at the time the exhibit is offered in evidence.) All statements made at the hearing will be recorded by the official reporter while the hearing is on the record. If a party wishes to make off-the-record remarks, requests to make such remarks should be directed to the hearing officer and not to the official reporter. After the close of the hearing, any request for corrections to the record, either by stipulation or motion, should be forwarded to the regional director.

Motions and Objections: All motions must be in writing unless stated orally on the record at the hearing and must briefly state the relief sought and the grounds for the motion. A copy of any motion must be served immediately on the other parties to the proceeding. Motions made during the hearing are filed with the hearing officer. All other motions are filed with the regional director, except that motions made after the transfer of the record to the Board are filed with the Board. If not E-Filed, an original and two copies of written motions shall be filed. Statements of reasons in support of motions or objections should be as concise as possible. Objections shall not be deemed waived by further participation in the hearing. On appropriate request, objections may be permitted to stand to an entire line of questioning. Automatic exceptions will be allowed to all adverse rulings.

Election Details: Prior to the close of the hearing the hearing officer will: (1) solicit the parties' positions (but will not permit litigation) on the type, date(s), time(s), and location(s) of the election and the eligibility period; (2) solicit the name, address, email address, facsimile number, and phone number of the employer's on-site representative to whom the regional director should transmit the Notice of Election if an election is directed; (3) inform the parties that the regional director will issue a decision as soon as practicable and will immediately transmit the document to the parties and their designated representatives by email, facsimile, or by overnight mail (if neither an email address nor facsimile number was provided); and (4) inform the parties of their obligations if the director directs an election and of the time for complying with those obligations.

Oral Argument and Briefs: Upon request, any party is entitled to a reasonable period at the close of the hearing for oral argument, which will be included in the official transcript of the hearing. At any time before the close of the hearing, any party may file a memorandum addressing relevant issues or points of law. Post-hearing briefs shall be due within 5 business days of the close of the hearing. The hearing officer may allow up to 10 additional business days for such briefs prior to the close of hearing and for good cause. If filed, copies of the memorandum or brief shall be served on all other parties to the proceeding and a statement of such service shall be filed with the memorandum or brief. No reply brief may be filed except upon special leave of the regional director. Briefs including electronic documents, filed with the Regional Director must be formatted as double-spaced in an 8½ by 11 inch format and must be e-filed through the Board's website, www.nlr.gov.

Regional Director Decision - After the hearing, the regional director issues a decision directing an election, dismissing the petition or reopening the hearing. A request for review of the regional director's pre-election decision may be filed with the Board at any time after issuance of the decision until 10 business days after a final disposition of the proceeding by the regional director. Accordingly, a party need not file a request for review before the election in order to preserve its right to contest that decision after the election. Instead, a party can wait to see whether the election results have mooted the basis of an appeal. The Board will grant a request for review only where compelling reasons exist therefor.

Voter List – The employer must provide to the regional director and the parties named in the election agreement or direction of election a list of the full names, work locations, shifts, job classifications, and contact information (including home addresses, available personal email addresses, and available home and personal cellular ("cell") telephone numbers) of all eligible voters. (In construction industry elections, unless the parties stipulate to the contrary, also eligible to vote are all employees in the unit who either (1) were employed a total of 30 working days or more within the 12 months preceding the election eligibility date or (2) had some employment in the 12 months preceding the election eligibility date and were employed 45 working days or more within the 24 months immediately preceding the election eligibility date. However, employees meeting either of those criteria who were terminated for cause or who quit voluntarily prior to the completion of the last job for which they were employed, are not eligible.) The employer must also include in a separate section of the voter list the same information for those individuals whom the parties have agreed should be permitted to vote subject to challenge or those individuals who, according to the direction of election, will be permitted to vote subject to challenge. The list of names must be alphabetized (overall or by department) and be in the same Microsoft Word file (or Microsoft Word compatible file) format as the initial lists provided with the Statement of Position form unless the parties agree to a different format or the employer certifies that it does not possess the capacity to produce the list in the required form. When feasible, the list must be filed electronically with the regional director and served electronically on the other parties named in the agreement or direction. To be timely filed and served, the voter list must be received by the regional director and the parties named in the agreement or direction respectively within 2 business days after the approval of the agreement or issuance of the direction of elections unless a longer time is specified in the agreement or direction. A certificate of service on all parties must be filed with the regional director when the voter list is filed. The employer's failure to file or serve the list within the specified time or in proper format shall be grounds for setting aside the election whenever proper and timely objections are filed. The parties shall not use the list for purposes other than the representation proceeding, Board proceedings arising from it, and related matters.

Waiver of Time to Use Voter List – Under existing NLRB practice, an election is not ordinarily scheduled for a date earlier than 10 calendar days after the date when the employer must file the voter list with the Regional Office. However, the parties entitled to receive the voter list may waive all or part of the 10-day period by executing Form NLRB-4483. A waiver will not be effective unless all parties who are entitled to the list agree to waive the same number of days.

Election – Information about the election, requirements to post and distribute the Notice of Election, and possible proceedings after the election is available from the Regional Office and will be provided to the parties when the Notice of Election is sent to the parties.

Withdrawal or Dismissal – If it is determined that the NLRB does not have jurisdiction or that other criteria for proceeding to an election are not met, the petitioner is offered an opportunity to withdraw the petition. If the petitioner does not withdraw the petition, the regional director will dismiss the petition and advise the petitioner of the reason for the dismissal and of the right to appeal to the Board.

REVIEW THE FOLLOWING IMPORTANT INFORMATION BEFORE FILLING OUT A STATEMENT OF POSITION FORM

Completing and Filing this Form: The Notice of Hearing indicates which parties are responsible for completing the form. If you are required to complete the form, you must have it signed by an authorized representative and file a completed copy (including all attachments) with the RD and serve copies on all parties named in the petition by the date and time established for its submission. If more space is needed for your answers, additional pages may be attached. If you have questions about this form or would like assistance in filling out this form, please contact the Board agent assigned to handle this case. **You must EFile your Statement of Position at www.nlrb.gov, but unlike other e-Filed documents, it will *not* be timely if filed on the due date but after noon in the time zone of the Region where the petition was filed.**

Note: Non-employer parties who complete this Statement of Position are NOT required to complete items 8f and 8g of the form, or to provide a commerce questionnaire or the lists described in item 7.

Required Lists: The employer's Statement of Position must include a list of the full names, work locations, shifts, and job classifications of all individuals in the proposed unit as of the payroll period preceding the filing of the petition who remain employed at the time of filing. If the employer contends that the proposed unit is inappropriate, the employer must separately list the full names, work locations, shifts and job classifications of all individuals that it contends must be added to the proposed unit to make it an appropriate unit. The employer must also indicate those individuals, if any, whom it believes must be excluded from the proposed unit to make it an appropriate unit. These lists must be alphabetized (overall or by department). Unless the employer certifies that it does not possess the capacity to produce the lists in the required form, the lists must be in a table in a Microsoft Word file (.doc or .docx) or a file that is compatible with Microsoft Word, the first column of the table must begin with each employee's last name, and the font size of the list must be the equivalent of Times New Roman 10 or larger. That font does not need to be used but the font must be that size or larger. A sample, optional form for the list is provided on the NLRB website at [www.nlrb.gov/sites/default/files/attachments/basic-page/node-4559/Optional Forms for Voter List.docx](http://www.nlrb.gov/sites/default/files/attachments/basic-page/node-4559/Optional%20Forms%20for%20Voter%20List.docx).

Consequences of Failure to Supply Information: Failure to supply the information requested by this form may preclude you from litigating issues under 102.66(d) of the Board's Rules and Regulations. Section 102.66(d) provides as follows:

A party shall be precluded from raising any issue, presenting any evidence relating to any issue, cross-examining any witness concerning any issue, and presenting argument concerning any issue that the party failed to raise in its timely Statement of Position or to place in dispute in response to another party's Statement of Position or response, except that no party shall be precluded from contesting or presenting evidence relevant to the Board's statutory jurisdiction to process the petition. Nor shall any party be precluded, on the grounds that a voter's eligibility or inclusion was not contested at the pre-election hearing, from challenging the eligibility of any voter during the election. If a party contends that the proposed unit is not appropriate in its Statement of Position but fails to specify the classifications, locations, or other employee groupings that must be added to or excluded from the proposed unit to make it an appropriate unit, the party shall also be precluded from raising any issue as to the appropriateness of the unit, presenting any evidence relating to the appropriateness of the unit, cross-examining any witness concerning the appropriateness of the unit, and presenting argument concerning the appropriateness of the unit. If the employer fails to timely furnish the lists of employees described in §§102.63(b)(1)(iii), (b)(2)(iii), or (b)(3)(iii), the employer shall be precluded from contesting the appropriateness of the proposed unit at any time and from contesting the eligibility or inclusion of any individuals at the pre-election hearing, including by presenting evidence or argument, or by cross-examination of witnesses.

UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD
STATEMENT OF POSITION

DO NOT WRITE IN THIS SPACE	
Case No. 04-RC-286591	Date Filed November 19, 2021

INSTRUCTIONS: Submit this Statement of Position to an NLRB Office in the Region in which the petition was filed and serve it and all attachments on each party named in the petition in this case such that it is received by them by the date and time specified in the notice of hearing.

Note: Non-employer parties who complete this form are NOT required to complete items 8f or 8g below or to provide a commerce questionnaire or the lists described in item 7.

1a. Full name of party filing Statement of Position		1c. Business Phone:	1e. Fax No.:
1b. Address (Street and number, city, state, and ZIP code)		1d. Cell No.:	1f. e-Mail Address
2. Do you agree that the NLRB has jurisdiction over the Employer in this case? <input type="checkbox"/> Yes <input type="checkbox"/> No (A completed commerce questionnaire (Attachment A) must be submitted by the Employer, regardless of whether jurisdiction is admitted)			
3. Do you agree that the proposed unit is appropriate? <input type="checkbox"/> Yes <input type="checkbox"/> No (If not, answer 3a and 3b)			
a. State the basis for your contention that the proposed unit is not appropriate. (If you contend a classification should be excluded or included briefly explain why, such as shares a community of interest or are supervisors or guards)			
b. State any classifications, locations, or other employee groupings that must be added to or excluded from the proposed unit to make it an appropriate unit.			
Added		Excluded	
4. Other than the individuals in classifications listed in 3b, list any individual(s) whose eligibility to vote you intend to contest at the pre-election hearing in this case and the basis for contesting their eligibility.			
5. Is there a bar to conducting an election in this case? <input type="checkbox"/> Yes <input type="checkbox"/> No If yes, state the basis for your position.			
6. Describe all other issues you intend to raise at the pre-election hearing.			
7. The employer must provide the following lists which must be alphabetized (overall or by department) in the format specified at www.nlr.gov/sites/default/files/attachments/basic-page/node-4559/Optional Forms for Voter List.docx . (a) A list containing the full names, work locations, shifts and job classification of all individuals in the proposed unit as of the payroll period immediately preceding the filing of the petition who remain employed as of the date of the filing of the petition. (Attachment B) (b) If the employer contends that the proposed unit is inappropriate the employer must provide (1) a separate list containing the full names, work locations, shifts and job classifications of all individuals that it contends must be added to the proposed unit, if any to make it an appropriate unit, (Attachment C) and (2) a list containing the full names of any individuals it contends must be excluded from the proposed unit to make it an appropriate unit. (Attachment D)			
8a. State your position with respect to the details of any election that may be conducted in this matter. Type: <input type="checkbox"/> Manual <input type="checkbox"/> Mail <input type="checkbox"/> Mixed Manual/Mail			
8b. Date(s)	8c. Time(s)	8d. Location(s)	
8e. Eligibility Period (e.g. special eligibility formula)	8f. Last Payroll Period Ending Date	8g. Length of payroll period <input type="checkbox"/> Weekly <input type="checkbox"/> Biweekly <input type="checkbox"/> Other (specify length)	
9. Representative who will accept service of all papers for purposes of the representation proceeding			
9a. Full name and title of authorized representative	9b. Signature of authorized representative		9c. Date
9d. Address (Street and number, city, state, and ZIP code)			9e. e-Mail Address
9f. Business Phone No.:		9g. Fax No.	9h. Cell No.

WILLFUL FALSE STATEMENTS ON THIS PETITION CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)

PRIVACY ACT STATEMENT

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. Section 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing representation proceedings. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (December 13, 2006). The NLRB will further explain these uses upon request. Failure to supply the information requested by this form may preclude you from litigating issues under 102.66(d) of the Board's Rules and Regulations and may cause the NLRB to refuse to further process a representation case or may cause the NLRB to issue you a subpoena and seek enforcement of the subpoena in federal court.

QUESTIONNAIRE ON COMMERCE INFORMATION

Please read carefully, answer all applicable items, and return to the NLRB Office. If additional space is required, please add a page and identify item number.

CASE NAME	CASE NUMBER 04-RC-286591
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1. EXACT LEGAL TITLE OF ENTITY (As filed with State and/or stated in legal documents forming entity)

2. TYPE OF ENTITY

☐ CORPORATION ☐ LLC ☐ LLP ☐ PARTNERSHIP ☐ SOLE PROPRIETORSHIP ☐ OTHER (Specify)

3. IF A CORPORATION or LLC

A. STATE OF INCORPORATION OR FORMATION	B. NAME, ADDRESS, AND RELATIONSHIP (e.g. parent, subsidiary) OF ALL RELATED ENTITIES
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4. IF AN LLC OR ANY TYPE OF PARTNERSHIP, FULL NAME AND ADDRESS OF ALL MEMBERS OR PARTNERS

5. IF A SOLE PROPRIETORSHIP, FULL NAME AND ADDRESS OF PROPRIETOR

6. BRIEFLY DESCRIBE THE NATURE OF YOUR OPERATIONS (Products handled or manufactured, or nature of services performed).

7A. PRINCIPAL LOCATION:

7B. BRANCH LOCATIONS:

8. NUMBER OF PEOPLE PRESENTLY EMPLOYED

A. TOTAL:

B. AT THE ADDRESS INVOLVED IN THIS MATTER:

9. DURING THE MOST RECENT (Check the appropriate box): ☐ CALENDAR ☐ 12 MONTHS or ☐ FISCAL YEAR (FY DATES _____)

	YES	NO
A. Did you provide services valued in excess of \$50,000 directly to customers outside your State? If no, indicate actual value. \$ _____		
B. If you answered no to 9A, did you provide services valued in excess of \$50,000 to customers in your State who purchased goods valued in excess of \$50,000 from directly outside your State? If no, indicate the value of any such services you provided. \$ _____		
C. If you answered no to 9A and 9B, did you provide services valued in excess of \$50,000 to public utilities, transit systems, newspapers, health care institutions, broadcasting stations, commercial buildings, educational institutions, or retail concerns? If less than \$50,000, indicate amount. \$ _____		
D. Did you sell goods valued in excess of \$50,000 directly to customers located outside your State? If less than \$50,000, indicate amount. \$ _____		
E. If you answered no to 9D, did you sell goods valued in excess of \$50,000 directly to customers located inside your State who purchased other goods valued in excess of \$50,000 from directly outside your State? If less than \$50,000, indicate amount. \$ _____		
F. Did you purchase and receive goods valued in excess of \$50,000 from directly outside your State? If less than \$50,000, indicate amount. \$ _____		
G. Did you purchase and receive goods valued in excess of \$50,000 from enterprises who received the goods directly from points outside your State? If less than \$50,000, indicate amount. \$ _____		
H. Gross Revenues from all sales or performance of services (Check the largest amount) <input type="checkbox"/> \$100,000 <input type="checkbox"/> \$250,000 <input type="checkbox"/> \$500,000 <input type="checkbox"/> \$1,000,000 or more If less than \$100,000, indicate amount.		
I. Did you begin operations within the last 12 months? If yes, specify date: _____		

10. ARE YOU A MEMBER OF AN ASSOCIATION OR OTHER EMPLOYER GROUP THAT ENGAGES IN COLLECTIVE BARGAINING?

☐ YES ☐ NO (If yes, name and address of association or group).

11. REPRESENTATIVE BEST QUALIFIED TO GIVE FURTHER INFORMATION ABOUT YOUR OPERATIONS

NAME	TITLE	E-MAIL ADDRESS	TEL. NUMBER
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12. AUTHORIZED REPRESENTATIVE COMPLETING THIS QUESTIONNAIRE

NAME AND TITLE (Type or Print)	SIGNATURE	E-MAIL ADDRESS	DATE
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PRIVACY ACT STATEMENT

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing representation and/or unfair labor practice proceedings and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary. However, failure to supply the information may cause the NLRB to refuse to process any further a representation or unfair labor practice case, or may cause the NLRB to issue you a subpoena and seek enforcement of the subpoena in federal court.

REVIEW THE FOLLOWING IMPORTANT INFORMATION BEFORE FILLING OUT A RESPONSIVE STATEMENT OF POSITION FORM

Completing and Filing this Form: For **RC and RD petitions**, the Petitioner is required to complete this form in response to each timely filed and served Statement of Position filed by another party. For **RM petitions**, the Employer-Petitioner must complete a Responsive Statement of Position form and submit the list described below. In accordance with Section 102.63(b) of the Board's Rules, if you are required to complete the form, you must have it signed by an authorized representative, and file a completed copy with any necessary attachments, with this office and serve it on all parties named in the petition responding to the issues raised in another party's Statement of Position, such that it is received no later than noon three business days before the date of the hearing. A separate form must be completed for each timely filed and properly served Statement of Position you receive. If more space is needed for your answers, additional pages may be attached. If you have questions about this form or would like assistance in filling out this form, please contact the Board agent assigned to handle this case. **You must E-File your Responsive Statement of Position at www.NLRB.gov, but unlike other e-Filed documents, it will *not* be timely if filed on the due date but after noon in the time zone of the Region where the petition was filed. Note that if you are completing this form as a PDF downloaded from www.NLRB.gov, the form will lock upon signature and no further editing may be made.**

Required List: In addition to responding to the issues raised in another party's Statement of Position, if any, the Employer-Petitioner in an RM case is required to file and serve on the parties a list of the full names, work locations, shifts, and job classifications of all individuals in the proposed unit as of the payroll period preceding the filing of the petition who remain employed at the time of filing. This list must be alphabetized (overall or by department). Unless the employer certifies that it does not possess the capacity to produce the list in the required form, the list must be in a table in a Microsoft Word file (.doc or .docx) or a file that is compatible with Microsoft Word, the first column of the table must begin with each employee's last name, and the font size of the list must be the equivalent of Times New Roman 10 or larger. That font does not need to be used but the font must be that size or larger. A sample, optional form for the list is provided on the NLRB website at www.nlr.gov/sites/default/files/attachments/basic-page/node-4559/Optional Forms for Voter List.docx

Consequences of Failure to Submit a Responsive Statement of Position: Failure to supply the information requested by this form may preclude you from litigating issues under 102.66(d) of the Board's Rules and Regulations. Section 102.66(d) provides as follows:

A party shall be precluded from raising any issue, presenting any evidence relating to any issue, cross-examining any witness concerning any issue, and presenting argument concerning any issue that the party failed to raise in its timely Statement of Position or to place in dispute in response to another party's Statement of Position or response, except that no party shall be precluded from contesting or presenting evidence relevant to the Board's statutory jurisdiction to process the petition. Nor shall any party be precluded, on the grounds that a voter's eligibility or inclusion was not contested at the pre-election hearing, from challenging the eligibility of any voter during the election. If a party contends that the proposed unit is not appropriate in its Statement of Position but fails to specify the classifications, locations, or other employee groupings that must be added to or excluded from the proposed unit to make it an appropriate unit, the party shall also be precluded from raising any issue as to the appropriateness of the unit, presenting any evidence relating to the appropriateness of the unit, cross-examining any witness concerning the appropriateness of the unit, and presenting argument concerning the appropriateness of the unit. If the employer fails to timely furnish the lists of employees described in §§102.63(b)(1)(iii), (b)(2)(iii), or (b)(3)(iii), the employer shall be precluded from contesting the appropriateness of the proposed unit at any time and from contesting the eligibility or inclusion of any individuals at the pre-election hearing, including by presenting evidence or argument, or by cross-examination of witnesses.

UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD
RESPONSIVE STATEMENT OF POSITION – RC, RD or RM PETITION

DO NOT WRITE IN THIS SPACE

Case No.
04-RC-286591

Date Filed
November 19, 2021

INSTRUCTIONS: If a party has submitted and served on you a timely Statement of Position to an RC, RD or RM petition, the Petitioner must submit this Responsive Statement of Position to an NLRB Office in the Region in which the petition was filed and serve it and any attachments on each party named in the petition in this case such that it is received by noon local time, three business days prior to the hearing date specified in the Notice of Hearing. A separate form must be completed for each timely filed and properly served Statement of Position received by the Petitioner. The Petitioner-Employer in a RM case is required to file this Responsive Statement of Position and include an appropriate employee list without regard to whether another party has filed a Statement of Position.

This Responsive Statement of Position is filed by the Petitioner in response to a Statement of Position received from the following party:

The Employer

An Intervenor/Union

1a. Full Name of Party Filing Responsive Statement of Position

1c. Business Phone

1d. Cell No.

1e. Fax No.

1f. E-Mail Address

1b. Address (Street and Number, City, State, and ZIP Code)

2. Identify all issues raised in the other party's Statement of Position that you dispute and describe the basis of your dispute:

a. EMPLOYER NAME/IDENTITY [Box 1a of Statement of Position Form NLRB-505 and Questionnaire on Commerce Information]

☐ No Dispute (no further response required) ☐ Dispute (response required below)

Response to Statement of Position:

b. JURISDICTION [Box 2 of Statement of Position Form NLRB-505 and Questionnaire on Commerce Information]

☐ No Dispute (no further response required) ☐ Dispute (response required below)

Response to Statement of Position:

c. APPROPRIATENESS OF UNIT [Boxes 3, 3a and 3b of Statement of Position Form NLRB-505]

☐ No Dispute (no further response required) ☐ Dispute (response required below)

Response to Statement of Position:

d. INDIVIDUAL ELIGIBILITY [Box 4 of Statement of Position Form NLRB-505]

☐ No Dispute (no further response required) ☐ Dispute (response required below)

Response to Statement of Position:

e. BARS TO ELECTION [Box 5 of Statement of Position Form NLRB-505]

☐ No Dispute (no further response required) ☐ Dispute (response required below)

Response to Statement of Position:

f. ALL OTHER ISSUES [Box 6 of Statement of Position Form NLRB-505]

☐ No Dispute (no further response required) ☐ Dispute (response required below)

Response to Statement of Position:

g. ELECTION DETAILS [Boxes 8a, 8b, 8c, 8d, 8e, 8f, and 8g of Statement of Position Form NLRB-505]

☐ No Dispute (no further response required) ☐ Dispute (response required below)

Response to Statement of Position:

Full Name and Title of Authorized Representative

Signature of Authorized Representative

Date

WILLFUL FALSE STATEMENTS ON THIS PETITION CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001) PRIVACY ACT STATEMENT

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. Section 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing representation proceedings. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. 74942-43 (December 13, 2006). The NLRB will further explain these uses upon request. Failure to supply the information requested by this form may preclude you from litigating issues under 102.66(d) of the Board's Rules and Regulations and may cause the NLRB to refuse to further process a representation case or may cause the NLRB to issue you a subpoena and seek enforcement of the subpoena in federal court.

Please fill all necessary fields on the form PRIOR to digitally signing. To make changes after the form has been signed, right-click on the signature field and click "clear signature." Once complete, please sign the form.



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

REGION 4
100 E Penn Square
Suite 403
Philadelphia, PA 19107

Agency Website: www.nlrb.gov
Telephone: (215)597-7601
Fax: (215)597-7658



Download
NLRB
Mobile App

November 22, 2021

URGENT

matt.toomey@iuoe542.com

Matt Toomey, Business Agent
International Union of Operating
Engineers Local 542
1375 Virginia Drive
Fort Washington, PA 19034

Re: GFP Mobile Mix Supply
Case 04-RC-286591

Dear Mr. Toomey:

The enclosed petition that you filed with the National Labor Relations Board (NLRB) has been assigned the above case number. This letter tells you how to contact the Board agent who will be handling this matter; explains your obligation to provide the originals of the showing of interest and the requirement that you complete and serve a Responsive Statement of Position form in response to each timely filed and served Statement(s) of Position; notifies you of a hearing; describes the employer's obligation to post and distribute a Notice of Petition for Election, complete a Statement of Position and provide a voter list; requests that you provide certain information; notifies you of your right to be represented; and discusses some of our procedures including how to submit documents to the NLRB.

Investigator: This petition will be investigated by Field Examiner DONNA M. BERNINI-MARTIN whose telephone number is (215)597-7647. The Board agent will contact you shortly to discuss processing the petition. If you have any questions, please do not hesitate to call the Board agent. The Board agent may also contact you and the other party or parties to schedule a conference meeting or telephonic or video conference for some time before the close of business the day following receipt of the final Responsive Statement(s) of Position. This will give the parties sufficient time to determine if any issues can be resolved prior to hearing or if a hearing is necessary. If the agent is not available, you may contact Supervisory Attorney NOELLE M. REESE whose telephone number is (215)597-0729. If appropriate, the NLRB attempts to schedule an election either by agreement of the parties or by holding a hearing and then directing an election.

Showing of Interest: If the Showing of Interest you provided in support of your petition was submitted electronically or by fax, the original documents which constitute the Showing of Interest containing handwritten signatures must be delivered to the Regional office within **2**

business days. If the originals are not received within that time the Region will dismiss your petition.

Notice of Hearing: Enclosed is a Notice of Representation Hearing to be conducted at **10:00 AM on Monday, December 13, 2021 by audioconference or videoconference, as appropriate,** if the parties do not voluntarily agree to an election. If a hearing is necessary, the hearing will run on consecutive days until concluded unless the regional director concludes that extraordinary circumstances warrant otherwise. Before the hearing begins, we will continue to explore potential areas of agreement with the parties in order to reach an election agreement and to eliminate or limit the costs associated with formal hearings.

Upon request of a party showing good cause, the regional director may postpone the hearing. A party desiring a postponement should make the request to the regional director in writing, set forth in detail the grounds for the request, and include the positions of the other parties regarding the postponement. E-Filing the request is required. A copy of the request must be served simultaneously on all the other parties, and that fact must be noted in the request.

Posting and Distribution of Notice: The Employer must post the enclosed Notice of Petition for Election by **Monday, November 29, 2021** in conspicuous places, including all places where notices to employees are customarily posted. If it customarily communicates electronically with its employees in the petitioned-for unit, it must also distribute the notice electronically to them. The Employer must maintain the posting until the petition is dismissed or withdrawn or this notice is replaced by the Notice of Election. Failure to post or distribute the notice may be grounds for setting aside the election if proper and timely objections are filed.

Statement of Position: In accordance with Section 102.63(b) of the Board's Rules, the Employer is required to complete the enclosed Statement of Position form, have it signed by an authorized representative, and file a completed copy with any necessary attachments, with this office and serve it on all parties named in the petition by **noon Eastern Time on Friday, December 3, 2021.** The Statement of Position must include a list of the full names, work locations, shifts, and job classifications of all individuals in the proposed unit as of the payroll period preceding the filing of the petition who remain employed at the time of filing. If the Employer contends that the proposed unit is inappropriate, it must separately list the full names, work locations, shifts and job classifications of all individuals that it contends must be added to the proposed unit to make it an appropriate unit. The Employer must also indicate those individuals, if any, whom it believes must be excluded from the proposed unit to make it an appropriate unit.

Required Responsive Statement of Position (RSOP): In accordance with Section 102.63(b) of the Board's Rules, following timely filing and service of a Statement of Position, the petitioner is required to complete the enclosed Responsive Statement of Position form addressing issues raised in any Statement(s) of Position. The petitioner must file a complete, signed RSOP in response to all other parties' timely filed and served Statement of Position, with all required attachments, with this office and serve it on all parties named in the petition such that it is received by them by **noon Eastern Time on Wednesday, December 8, 2021.** This form solicits information that will facilitate entry into election agreements or streamline the pre-

election hearing if the parties are unable to enter into an election agreement. **This form must be e-Filed, but unlike other e-Filed documents, will not be timely if filed on the due date but after noon Eastern Time.** If you have questions about this form or would like assistance in filling out this form, please contact the Board agent named above.

Failure to Supply Information: Failure to supply the information requested by the RSOP form may preclude you from litigating issues under Section 102.66(d) of the Board's Rules and Regulations. Section 102.66(d) provides as follows:

A party shall be precluded from raising any issue, presenting any evidence relating to any issue, cross-examining any witness concerning any issue, and presenting argument concerning any issue that the party failed to raise in its timely Statement of Position or to place in dispute in response to another party's Statement of Position or response, except that no party shall be precluded from contesting or presenting evidence relevant to the Board's statutory jurisdiction to process the petition. Nor shall any party be precluded, on the grounds that a voter's eligibility or inclusion was not contested at the pre-election hearing, from challenging the eligibility of any voter during the election. If a party contends that the proposed unit is not appropriate in its Statement of Position but fails to specify the classifications, locations, or other employee groupings that must be added to or excluded from the proposed unit to make it an appropriate unit, the party shall also be precluded from raising any issue as to the appropriateness of the unit, presenting any evidence relating to the appropriateness of the unit, cross-examining any witness concerning the appropriateness of the unit, and presenting argument concerning the appropriateness of the unit. If the employer fails to timely furnish the lists of employees described in §§ 102.63(b)(1)(iii), (b)(2)(iii), or (b)(3)(iii), the employer shall be precluded from contesting the appropriateness of the proposed unit at any time and from contesting the eligibility or inclusion of any individuals at the pre-election hearing, including by presenting evidence or argument, or by cross-examination of witnesses.

Voter List: If an election is held in this matter, the Employer must transmit to this office and to the other parties to the election, an alphabetized list of the full names and addresses of all eligible voters, including their shifts, job classifications, work locations, and other contact information including available personal email addresses and available personal home and cellular telephone numbers. Usually, the list must be furnished within 2 business days of the issuance of the Decision and Direction of Election or approval of an election agreement. The list must be electronically filed with the Region and served electronically on the other parties. To guard against potential abuse, this list may not be used for purposes other than the representation proceeding, NLRB proceedings arising from it or other related matters.

Under existing NLRB practice, an election is not ordinarily scheduled for a date earlier than 10 days after the date when the Employer must file the voter list with the Regional Office. However, a petitioner and/or union entitled to receive the voter list may waive all or part of the 10-day period by executing Form NLRB-4483, which is available on the NLRB's website or

from an NLRB office. A waiver will not be effective unless all parties who are entitled to the voter list agree to waive the same number of days.

Information Needed Now: Please submit to this office, as soon as possible, the following information needed to handle this matter:

- (a) The correct name of the Union as stated in its constitution or bylaws.
- (b) A copy of any existing or recently expired collective-bargaining agreements, and any amendments or extensions, or any recognition agreements covering any employees in the petitioned-for unit.
- (c) If potential voters will need notices or ballots translated into a language other than English, the names of those languages and dialects, if any.
- (d) The name and contact information for any other labor organization (union) claiming to represent or have an interest in any of the employees in the petitioned-for unit and for any employer who may be a joint employer of the employees in the proposed unit. Failure to disclose the existence of an interested party may delay the processing of the petition.

Right to Representation: You have the right to be represented by an attorney or other representative in any proceeding before the NLRB. In view of our policy of processing these cases expeditiously, if you wish to be represented, you should obtain representation promptly. Your representative must notify us in writing of this fact as soon as possible by completing Form NLRB-4701, Notice of Appearance. This form is available on our website, www.nlr.gov, or from an NLRB office upon your request.

If someone contacts you about representing you in this case, please be assured that no organization or person seeking your business has any “inside knowledge” or favored relationship with the NLRB. Their knowledge regarding this matter was obtained only through access to information that must be made available to any member of the public under the Freedom of Information Act.

Procedures: Pursuant to Section 102.5 of the Board’s Rules and Regulations, parties must submit all documentary evidence, including statements of position, exhibits, sworn statements, and/or other evidence, by electronically submitting (E-Filing) them through the Agency’s web site (www.nlr.gov). You must e-file all documents electronically or provide a written statement explaining why electronic submission is not possible or feasible. Failure to comply with Section 102.5 will result in rejection of your submission. The Region will make its determinations solely based on the documents and evidence properly submitted. All evidence submitted electronically should be in the form in which it is normally used and maintained in the course of business (i.e., native format). Where evidence submitted electronically is not in native format, it should be submitted in a manner that retains the essential functionality of the native format (i.e., in a machine-readable and searchable electronic format). If you have questions about the submission of evidence or expect to deliver a large quantity of electronic records, please promptly contact the Board agent investigating the petition.

Information about the NLRB and our customer service standards is available on our website, www.nlr.gov, or from an NLRB office upon your request. We can provide assistance for persons with limited English proficiency or disability. Please let us know if you or any of your witnesses would like such assistance.

Very truly yours,

A handwritten signature in black ink that reads "Thomas Goonan". The signature is written in a cursive, slightly slanted style.

Thomas Goonan
Regional Director

Enclosures

1. Petition
2. Notice of Petition for Election (Form 5492)
3. Notice of Representation Hearing
4. Description of Procedures in Certification and Decertification Cases (Form 4812)
5. Statement of Position form and Commerce Questionnaire (Form 505)
6. Responsive Statement of Position (Form 506)



National Labor Relations Board



NOTICE OF PETITION FOR ELECTION

This notice is to inform employees that International Union of Operating Engineers Local 542 has filed a petition with the National Labor Relations Board (NLRB), a Federal agency, in Case 04-RC-286591 seeking an election to become certified as the representative of the employees of GFP Mobile Mix Supply in the unit set forth below:

Included: Driver operators.

Excluded: Clerical, guards and supervisors as defined by the Act.

This notice also provides you with information about your basic rights under the National Labor Relations Act, the processing of the petition, and rules to keep NLRB elections fair and honest.

YOU HAVE THE RIGHT under Federal Law

- To self-organization
- To form, join, or assist labor organizations
- To bargain collectively through representatives of your own choosing
- To act together for the purposes of collective bargaining or other mutual aid or protection
- To refuse to do any or all of these things unless the union and employer, in a state where such agreements are permitted, enter into a lawful union-security agreement requiring employees to pay periodic dues and initiation fees. Nonmembers who inform the union that they object to the use of their payments for nonrepresentational purposes may be required to pay only their share of the union's costs of representational activities (such as collective bargaining, contract administration, and grievance adjustments).

PROCESSING THIS PETITION

Elections do not necessarily occur in all cases after a petition is filed. **NO FINAL DECISIONS HAVE BEEN MADE YET** regarding the appropriateness of the proposed unit or whether an election will be held in this matter. If appropriate, the NLRB will first see if the parties will enter into an election agreement that specifies the method, date, time, and location of an election and the unit of employees eligible to vote. If the parties do not enter into an election agreement, usually a hearing is held to receive evidence on the appropriateness of the unit and other issues in dispute. After a hearing, an election may be directed by the NLRB, if appropriate.

IF AN ELECTION IS HELD, it will be conducted by the NLRB by secret ballot and Notices of Election will be posted before the election giving complete details for voting.

ELECTION RULES

The NLRB applies rules that are intended to keep its elections fair and honest and that result in a free choice. If agents of any party act in such a way as to interfere with your right to a free election, the election can be set aside by the NLRB. Where appropriate the NLRB provides other remedies, such as reinstatement for employees fired for exercising their rights, including backpay from the party responsible for their discharge.

The following are examples of conduct that interfere with employees' rights and may result in setting aside the election:

- Threatening loss of jobs or benefits by an employer or a union
- Promising or granting promotions, pay raises, or other benefits, to influence an employee's vote by a party capable of carrying out such promises
- An employer firing employees to discourage or encourage union activity or a union causing them to be fired to encourage union activity
- Making campaign speeches to assembled groups of employees on company time, where attendance is mandatory, within the 24-hour period before the polls for the election first open or, if the election is conducted by mail, from the time and date the ballots are scheduled to be sent out by the Region until the time and date set for their return
- Incitement by either an employer or a union of racial or religious prejudice by inflammatory appeals
- Threatening physical force or violence to employees by a union or an employer to influence their votes

Please be assured that IF AN ELECTION IS HELD, every effort will be made to protect your right to a free choice under the law. Improper conduct will not be permitted. All parties are expected to cooperate fully with the NLRB in maintaining basic principles of a fair election as required by law. The NLRB as an agency of the United States Government does not endorse any choice in the election.

For additional information about the processing of petitions, go to www.nlr.gov or contact the NLRB at (215)597-7601.

THIS IS AN OFFICIAL GOVERNMENT NOTICE AND MUST NOT BE DEFACED BY ANYONE. IT MUST REMAIN POSTED WITH ALL PAGES SIMULTANEOUSLY VISIBLE UNTIL REPLACED BY THE NOTICE OF ELECTION OR THE PETITION IS DISMISSED OR WITHDRAWN.



National Labor Relations Board





**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 4**



GFP Mobile Mix Supply Employer and International Union of Operating Engineers Local 542 Petitioner	Case 04-RC-286591
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NOTICE OF REPRESENTATION HEARING

The Petitioner filed the attached petition pursuant to Section 9(c) of the National Labor Relations Act. It appears that a question affecting commerce exists as to whether the employees in the unit described in the petition wish to be represented by a collective-bargaining representative as defined in Section 9(a) of the Act.

YOU ARE HEREBY NOTIFIED that, pursuant to Sections 3(b) and 9(c) of the Act, at 10:00 AM on **Monday, December 13, 2021** and on consecutive days thereafter until concluded, **by audioconference or videoconference, as appropriate**, a hearing will be conducted before a hearing officer of the National Labor Relations Board. At the hearing, the parties will have the right to appear in person or otherwise, and give testimony.

YOU ARE FURTHER NOTIFIED that, pursuant to Section 102.63(b) of the Board's Rules and Regulations, GFP Mobile Mix Supply must complete the Statement of Position and file it and all attachments with the Regional Director and serve it on the parties listed on the petition such that is received by them by no later than **noon** Eastern time on **Friday, December 3, 2021**. Following timely filing and service of a Statement of Position by GFP Mobile Mix Supply, the Petitioner must complete its Responsive Statement of Position(s) responding to the issues raised in the Employer's and/or Union's Statement of Position and file them and all attachments with the Regional Director and serve them on the parties named in the petition such that they are received by them no later than **noon** Eastern on **Wednesday, December 8, 2021**.

Pursuant to Section 102.5 of the Board's Rules and Regulations, all documents filed in cases before the Agency must be filed by electronically submitting (E-Filing) through the Agency's website (www.nlrb.gov), unless the party filing the document does not have access to the means for filing electronically or filing electronically would impose an undue burden. Documents filed by means other than E-Filing must be accompanied by a statement explaining why the filing party does not have access to the means for filing electronically or filing electronically would impose an undue burden. Detailed instructions for using the NLRB's E-Filing system can be found in the [E-Filing System User Guide](#).

The Statement of Position and Responsive Statement of Position must be E-Filed but, unlike other E-Filed documents, must be filed by **noon** Eastern on the due date in order to be timely. If an election agreement is signed by all parties and returned to the Regional Office before the due date of the Statement of Position, the Statement of Position and Responsive Statement of Position are not required to be filed. If an election agreement is signed by all parties and returned to the Regional office after the due date of the Statement of Position but before the due date of the Responsive Statement of Position, the Responsive Statement of Position is not required to be filed.

Dated: November 22, 2021



Thomas Goonan
REGIONAL DIRECTOR
NATIONAL LABOR RELATIONS BOARD
REGION 04
100 E Penn Square
Suite 403
Philadelphia, PA 19107

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD**

GFP Mobile Mix Supply Employer and International Union of Operating Engineers Local 542 Petitioner	Case 04-RC-286591
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AFFIDAVIT OF SERVICE OF: Petition dated November 19, 2021, Notice of Representation Hearing dated November 22, 2021, Description of Procedures in Certification and Decertification Cases (Form NLRB-4812), Notice of Petition for Election, and Statement of Position Form (Form NLRB-505).

I, the undersigned employee of the National Labor Relations Board, being duly sworn, say that on November 22, 2021, I served the above documents by electronic mail and regular mail upon the following persons, addressed to them at the following addresses:

Dennis Gosert
GFP Mobile Mix Supply
14 Hadco Road
Wilmington, DE 19804
dominic.papa@gfpcement.com

Matt Toomey, Business Agent
International Union of Operating
Engineers Local 542
1375 Virginia Drive
Fort Washington, PA 19034
matt.toomey@iuoe542.con

November 22, 2021

Date

Lorraine Y. Murray
Designated Agent of NLRB

Name

/s/ Lorraine Y. Murray

Signature

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD

**DESCRIPTION OF REPRESENTATION CASE PROCEDURES
IN CERTIFICATION AND DECERTIFICATION CASES**

The National Labor Relations Act grants employees the right to bargain collectively through representatives of their own choosing and to refrain from such activity. A party may file an RC, RD or RM petition with the National Labor Relations Board (NLRB) to conduct a secret ballot election to determine whether a representative will represent, or continue to represent, a unit of employees. An **RC** petition is generally filed by a union that desires to be certified as the bargaining representative. An **RD** petition is filed by employees who seek to remove the currently recognized union as the bargaining representative. An **RM** petition is filed by an employer who seeks an election because one or more individuals or unions have sought recognition as the bargaining representative, or based on a reasonable belief supported by objective considerations that the currently recognized union has lost its majority status. This form generally describes representation case procedures in RC, RD and RM cases, also referred to as certification and decertification cases.

Right to be Represented – Any party to a case with the NLRB has the right to be represented by an attorney or other representative in any proceeding before the NLRB. A party wishing to have a representative appear on its behalf should have the representative complete a Notice of Appearance (Form NLRB-4701), and E-File it at www.nlr.gov or forward it to the NLRB Regional Office handling the petition as soon as possible.

Filing and Service of Petition – A party filing an RC, RD or RM petition is required to serve a copy of its petition on the parties named in the petition along with this form and the Statement of Position form. The petitioner files the petition with the NLRB, together with (1) a certificate showing service of these documents on the other parties named in the petition, and (2) a showing of interest to support the petition. The showing of interest is not served on the other parties.

Notice of Hearing – After a petition in a certification or decertification case is filed with the NLRB, the NLRB reviews the petition, certificate of service, and the required showing of interest for sufficiency, assigns the petition a case number, and promptly sends letters to the parties notifying them of the Board agent who will be handling the case. In most cases, the letters include a Notice of Representation Hearing. Except in cases presenting unusually complex issues, this pre-election hearing is set for a date 14 business days (excluding weekends and federal holidays) from the date of service of the notice of hearing. Once the hearing begins, it will continue day to day until completed absent extraordinary circumstances. The Notice of Representation Hearing also sets the due date for filing and serving the Statement(s) of Position and the Responsive Statement of Position(s). Included with the Notice of Representation Hearing are the following: (1) copy of the petition, (2) this form, (3) Statement of Position for non-petitioning parties, (4) petitioner's Responsive Statement of Position, (5) Notice of Petition for Election, and (6) letter advising how to contact the Board agent who will be handling the case and discussing those documents.

Hearing Postponement: Requests to postpone the hearing are not routinely granted, but the regional director may postpone the hearing for good cause. A party wishing to request a postponement should make the request in writing and set forth in detail the grounds for the request. The request should include the positions of the other parties regarding the postponement. The request must be filed electronically ("E-Filed") on the Agency's website (www.nlr.gov) by following the instructions on the website. A copy of the request must be served simultaneously on all the other parties, and that fact must be noted in the request.

Statement of Position Form and List(s) of Employees – The Statement of Position form solicits commerce and other information that will facilitate entry into election agreements or streamline the pre-election hearing if the parties are unable to enter into an election agreement. In an **RC** or **RD** case, as part of its Statement of Position form, the employer also provides a list of the full names, work locations, shifts, and job classifications of all individuals in the proposed unit. If the employer contends that the proposed unit is not appropriate, the employer must separately list the same information for all individuals that the employer contends must be added to the proposed unit to make it an appropriate unit, and must further indicate those individuals, if any, whom it believes must be excluded from the proposed unit to make it an appropriate unit. These lists must be alphabetized (overall or by department). Unless the employer certifies that it does not possess the capacity to produce the lists in the required form, the lists must be in a table in a Microsoft Word file (.doc or .docx) or a file that is compatible with Microsoft Word, the first column of the table must begin with each employee's last name, and the font size of the list must be the equivalent of Times New Roman 10 or larger. That font does not need to be used but the font must be that size or larger. A sample, optional

form for the list is provided on the NLRB website at www.nlr.gov/sites/default/files/attachments/basic-page/node-4559/Optional Forms for Voter List.docx

Ordinarily the Statement of Position must be filed with the Regional Office and served on the other parties such that it is received by them by noon 8 business days from the issuance of the Notice of Hearing. The regional director may postpone the due date for filing and serving the Statement of Position for good cause. The Statement of Position form must be E-Filed but, unlike other E-Filed documents, will not be timely if filed on the due date but after noon in the time zone of the Region where the petition is filed. Consequences for failing to satisfy the Statement of Position requirement are discussed on the following page under the heading "Preclusion." A request to postpone the hearing will not automatically be treated as a request for an extension of the Statement of Position due date. If a party wishes to request both a postponement of the hearing and a postponement of the Statement of Position due date, the request must make that clear and must specify the reasons that postponements of both are sought.

Responsive Statement of Position – Petitioner's Responsive Statement(s) of Position solicits a response to the Statement(s) of Position filed by the other parties and further facilitates entry into election agreements or streamlines the preelection hearing. A petitioner must file a Responsive Statement of Position in response to each party's Statement of Position addressing each issue in each Statement of Position(s), if desired. In the case of an RM petition, the employer-petitioner must also provide commerce information and file and serve a list of the full names, work locations, shifts, and job classifications of all individuals in the proposed unit. Ordinarily, the Responsive Statement of Position must be electronically filed with the Regional Office and served on the other parties such that it is received by noon 3 business days prior to the hearing. The regional director may postpone the due date for filing and serving the Responsive Statement of Position for good cause. The Responsive Statement of Position form must be E-Filed but, unlike other E-Filed documents, will not be timely if filed on the due date but after noon in the time zone of the Region where the petition is filed. Consequences for failing to satisfy the Responsive Statement of Position requirement are discussed on the following page under the heading "Preclusion." A request to postpone the hearing will not automatically be treated as a request for an extension of the Responsive Statement of Position due date. If a party wishes to request both a postponement of the hearing and a Postponement of the Responsive Statement of Position due date, the request must make that clear and must specify the reasons that postponements of both are sought.

Posting and Distribution of Notice of Petition for Election – Within 5 business days after service of the notice of hearing, the employer must post the Notice of Petition for Election in conspicuous places, including all places where notices to employees are customarily posted, and must also distribute it electronically to the employees in the petitioned-for unit if the employer customarily communicates with these employees electronically. The employer must maintain the posting until the petition is dismissed or withdrawn, or the Notice of Petition for Election is replaced by the Notice of Election. The employer's failure properly to post or distribute the Notice of Petition for Election may be grounds for setting aside the election if proper and timely objections are filed.

Election Agreements – Elections can occur either by agreement of the parties or by direction of the regional director or the Board. Three types of agreements are available: (1) a Consent Election Agreement (Form NLRB-651); (2) a Stipulated Election Agreement (Form NLRB-652); and (3) a Full Consent Agreement (Form NLRB-5509). In the Consent Election Agreement and the Stipulated Election Agreement, the parties agree on an appropriate unit and the method, date, time, and place of a secret ballot election that will be conducted by an NLRB agent. In the Consent Agreement, the parties also agree that post-election matters (election objections or determinative challenged ballots) will be resolved with finality by the regional director; whereas in the Stipulated Election Agreement, the parties agree that they may request Board review of the regional director's post-election determinations. A Full Consent Agreement provides that the regional director will make final determinations regarding all pre-election and post-election issues.

Hearing Cancellation Based on Agreement of the Parties – The issuance of the Notice of Representation Hearing does not mean that the matter cannot be resolved by agreement of the parties. On the contrary, the NLRB encourages prompt voluntary adjustments and the Board agent assigned to the case will work with the parties to enter into an election agreement, so the parties can avoid the time and expense of participating in a hearing.

Hearing – A hearing will be held unless the parties enter into an election agreement approved by the regional director or the petition is dismissed or withdrawn.

Purpose of Hearing: The primary purpose of a pre-election hearing is to determine if a question of representation exists. A question of representation exists if a proper petition has been filed concerning a unit

appropriate for the purpose of collective bargaining or, in the case of a decertification petition, concerning a unit in which a labor organization has been certified or is being currently recognized by the employer as the bargaining representative.

Issues at Hearing: Issues that might be litigated at the pre-election hearing include: jurisdiction; labor organization status; bars to elections; unit appropriateness; expanding and contracting unit issues; inclusion of professional employees with nonprofessional employees; seasonal operation; potential mixed guard/non-guard unit; and eligibility formulas. At the hearing, the timely filed Statement of Position and Responsive Statement of Position(s) will be received into evidence. The hearing officer will not receive evidence concerning any issue as to which the parties have not taken adverse positions, except for evidence regarding the Board's jurisdiction over the employer and evidence concerning any issue, such as the appropriateness of the proposed unit, as to which the regional director determines that record evidence is necessary.

Preclusion: At the hearing, a party will be precluded from raising any issue, presenting any evidence relating to any issue, cross-examining any witness concerning any issue, and presenting argument concerning any issue that the party failed to raise in its timely Statement of Position or Responsive Statement of Position(s) or to place in dispute in timely response to another party's Statement of Position or response, except that no party will be precluded from contesting or presenting evidence relevant to the Board's statutory jurisdiction to process the petition. Nor shall any party be precluded, on the grounds that a voter's eligibility or inclusion was not contested at the pre-election hearing, from challenging the eligibility of any voter during the election. If a party contends that the proposed unit is not appropriate in its Statement of Position but fails to specify the classifications, locations, or other employee groupings that must be added to or excluded from the proposed unit to make it an appropriate unit, the party shall also be precluded from raising any issue as to the appropriateness of the unit, presenting any evidence relating to the appropriateness of the unit, cross examining any witness concerning the appropriateness of the unit, and presenting argument concerning the appropriateness of the unit. As set forth in §102.66(d) of the Board's rules, if the employer fails to timely furnish the lists of employees, the employer will be precluded from contesting the appropriateness of the proposed unit at any time and from contesting the eligibility or inclusion of any individuals at the pre-election hearing, including by presenting evidence or argument, or by cross-examination of witnesses.

Conduct of Hearing: If held, the hearing is usually open to the public and will be conducted by a hearing officer of the NLRB. Any party has the right to appear at any hearing in person, by counsel, or by other representative, to call, examine, and cross-examine witnesses, and to introduce into the record evidence of the significant facts that support the party's contentions and are relevant to the existence of a question of representation. The hearing officer also has the power to call, examine, and cross-examine witnesses and to introduce into the record documentary and other evidence. Witnesses will be examined orally under oath. The rules of evidence prevailing in courts of law or equity shall not be controlling. Parties appearing at any hearing who have or whose witnesses have disabilities falling within the provisions of Section 504 of the Rehabilitation Act of 1973, as amended, and 29 C.F.R. 100.503, and who in order to participate in this hearing need appropriate auxiliary aids, as defined in 29 C.F.R. 100.503, should notify the regional director as soon as possible and request the necessary assistance.

Official Record: An official reporter will make the only official transcript of the proceedings and all citations in briefs or arguments must refer to the official record. (Copies of exhibits should be supplied to the hearing officer and other parties at the time the exhibit is offered in evidence.) All statements made at the hearing will be recorded by the official reporter while the hearing is on the record. If a party wishes to make off-the-record remarks, requests to make such remarks should be directed to the hearing officer and not to the official reporter. After the close of the hearing, any request for corrections to the record, either by stipulation or motion, should be forwarded to the regional director.

Motions and Objections: All motions must be in writing unless stated orally on the record at the hearing and must briefly state the relief sought and the grounds for the motion. A copy of any motion must be served immediately on the other parties to the proceeding. Motions made during the hearing are filed with the hearing officer. All other motions are filed with the regional director, except that motions made after the transfer of the record to the Board are filed with the Board. If not E-Filed, an original and two copies of written motions shall be filed. Statements of reasons in support of motions or objections should be as concise as possible. Objections shall not be deemed waived by further participation in the hearing. On appropriate request, objections may be permitted to stand to an entire line of questioning. Automatic exceptions will be allowed to all adverse rulings.

Election Details: Prior to the close of the hearing the hearing officer will: (1) solicit the parties' positions (but will not permit litigation) on the type, date(s), time(s), and location(s) of the election and the eligibility period; (2) solicit the name, address, email address, facsimile number, and phone number of the employer's on-site representative to whom the regional director should transmit the Notice of Election if an election is directed; (3) inform the parties that the regional director will issue a decision as soon as practicable and will immediately transmit the document to the parties and their designated representatives by email, facsimile, or by overnight mail (if neither an email address nor facsimile number was provided); and (4) inform the parties of their obligations if the director directs an election and of the time for complying with those obligations.

Oral Argument and Briefs: Upon request, any party is entitled to a reasonable period at the close of the hearing for oral argument, which will be included in the official transcript of the hearing. At any time before the close of the hearing, any party may file a memorandum addressing relevant issues or points of law. Post-hearing briefs shall be due within 5 business days of the close of the hearing. The hearing officer may allow up to 10 additional business days for such briefs prior to the close of hearing and for good cause. If filed, copies of the memorandum or brief shall be served on all other parties to the proceeding and a statement of such service shall be filed with the memorandum or brief. No reply brief may be filed except upon special leave of the regional director. Briefs including electronic documents, filed with the Regional Director must be formatted as double-spaced in an 8½ by 11 inch format and must be e-filed through the Board's website, www.nlr.gov.

Regional Director Decision - After the hearing, the regional director issues a decision directing an election, dismissing the petition or reopening the hearing. A request for review of the regional director's pre-election decision may be filed with the Board at any time after issuance of the decision until 10 business days after a final disposition of the proceeding by the regional director. Accordingly, a party need not file a request for review before the election in order to preserve its right to contest that decision after the election. Instead, a party can wait to see whether the election results have mooted the basis of an appeal. The Board will grant a request for review only where compelling reasons exist therefor.

Voter List – The employer must provide to the regional director and the parties named in the election agreement or direction of election a list of the full names, work locations, shifts, job classifications, and contact information (including home addresses, available personal email addresses, and available home and personal cellular ("cell") telephone numbers) of all eligible voters. (In construction industry elections, unless the parties stipulate to the contrary, also eligible to vote are all employees in the unit who either (1) were employed a total of 30 working days or more within the 12 months preceding the election eligibility date or (2) had some employment in the 12 months preceding the election eligibility date and were employed 45 working days or more within the 24 months immediately preceding the election eligibility date. However, employees meeting either of those criteria who were terminated for cause or who quit voluntarily prior to the completion of the last job for which they were employed, are not eligible.) The employer must also include in a separate section of the voter list the same information for those individuals whom the parties have agreed should be permitted to vote subject to challenge or those individuals who, according to the direction of election, will be permitted to vote subject to challenge. The list of names must be alphabetized (overall or by department) and be in the same Microsoft Word file (or Microsoft Word compatible file) format as the initial lists provided with the Statement of Position form unless the parties agree to a different format or the employer certifies that it does not possess the capacity to produce the list in the required form. When feasible, the list must be filed electronically with the regional director and served electronically on the other parties named in the agreement or direction. To be timely filed and served, the voter list must be received by the regional director and the parties named in the agreement or direction respectively within 2 business days after the approval of the agreement or issuance of the direction of elections unless a longer time is specified in the agreement or direction. A certificate of service on all parties must be filed with the regional director when the voter list is filed. The employer's failure to file or serve the list within the specified time or in proper format shall be grounds for setting aside the election whenever proper and timely objections are filed. The parties shall not use the list for purposes other than the representation proceeding, Board proceedings arising from it, and related matters.

Waiver of Time to Use Voter List – Under existing NLRB practice, an election is not ordinarily scheduled for a date earlier than 10 calendar days after the date when the employer must file the voter list with the Regional Office. However, the parties entitled to receive the voter list may waive all or part of the 10-day period by executing Form NLRB-4483. A waiver will not be effective unless all parties who are entitled to the list agree to waive the same number of days.

Election – Information about the election, requirements to post and distribute the Notice of Election, and possible proceedings after the election is available from the Regional Office and will be provided to the parties when the Notice of Election is sent to the parties.

Withdrawal or Dismissal – If it is determined that the NLRB does not have jurisdiction or that other criteria for proceeding to an election are not met, the petitioner is offered an opportunity to withdraw the petition. If the petitioner does not withdraw the petition, the regional director will dismiss the petition and advise the petitioner of the reason for the dismissal and of the right to appeal to the Board.

REVIEW THE FOLLOWING IMPORTANT INFORMATION BEFORE FILLING OUT A STATEMENT OF POSITION FORM

Completing and Filing this Form: The Notice of Hearing indicates which parties are responsible for completing the form. If you are required to complete the form, you must have it signed by an authorized representative and file a completed copy (including all attachments) with the RD and serve copies on all parties named in the petition by the date and time established for its submission. If more space is needed for your answers, additional pages may be attached. If you have questions about this form or would like assistance in filling out this form, please contact the Board agent assigned to handle this case. **You must EFile your Statement of Position at www.nlrb.gov, but unlike other e-Filed documents, it will *not* be timely if filed on the due date but after noon in the time zone of the Region where the petition was filed.**

Note: Non-employer parties who complete this Statement of Position are NOT required to complete items 8f and 8g of the form, or to provide a commerce questionnaire or the lists described in item 7.

Required Lists: The employer's Statement of Position must include a list of the full names, work locations, shifts, and job classifications of all individuals in the proposed unit as of the payroll period preceding the filing of the petition who remain employed at the time of filing. If the employer contends that the proposed unit is inappropriate, the employer must separately list the full names, work locations, shifts and job classifications of all individuals that it contends must be added to the proposed unit to make it an appropriate unit. The employer must also indicate those individuals, if any, whom it believes must be excluded from the proposed unit to make it an appropriate unit. These lists must be alphabetized (overall or by department). Unless the employer certifies that it does not possess the capacity to produce the lists in the required form, the lists must be in a table in a Microsoft Word file (.doc or .docx) or a file that is compatible with Microsoft Word, the first column of the table must begin with each employee's last name, and the font size of the list must be the equivalent of Times New Roman 10 or larger. That font does not need to be used but the font must be that size or larger. A sample, optional form for the list is provided on the NLRB website at [www.nlrb.gov/sites/default/files/attachments/basic-page/node-4559/Optional Forms for Voter List.docx](http://www.nlrb.gov/sites/default/files/attachments/basic-page/node-4559/Optional%20Forms%20for%20Voter%20List.docx).

Consequences of Failure to Supply Information: Failure to supply the information requested by this form may preclude you from litigating issues under 102.66(d) of the Board's Rules and Regulations. Section 102.66(d) provides as follows:

A party shall be precluded from raising any issue, presenting any evidence relating to any issue, cross-examining any witness concerning any issue, and presenting argument concerning any issue that the party failed to raise in its timely Statement of Position or to place in dispute in response to another party's Statement of Position or response, except that no party shall be precluded from contesting or presenting evidence relevant to the Board's statutory jurisdiction to process the petition. Nor shall any party be precluded, on the grounds that a voter's eligibility or inclusion was not contested at the pre-election hearing, from challenging the eligibility of any voter during the election. If a party contends that the proposed unit is not appropriate in its Statement of Position but fails to specify the classifications, locations, or other employee groupings that must be added to or excluded from the proposed unit to make it an appropriate unit, the party shall also be precluded from raising any issue as to the appropriateness of the unit, presenting any evidence relating to the appropriateness of the unit, cross-examining any witness concerning the appropriateness of the unit, and presenting argument concerning the appropriateness of the unit. If the employer fails to timely furnish the lists of employees described in §§102.63(b)(1)(iii), (b)(2)(iii), or (b)(3)(iii), the employer shall be precluded from contesting the appropriateness of the proposed unit at any time and from contesting the eligibility or inclusion of any individuals at the pre-election hearing, including by presenting evidence or argument, or by cross-examination of witnesses.

UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD
STATEMENT OF POSITION

DO NOT WRITE IN THIS SPACE

Case No.
04-RC-286591

Date Filed
November 19, 2021

INSTRUCTIONS: Submit this Statement of Position to an NLRB Office in the Region in which the petition was filed and serve it and all attachments on each party named in the petition in this case such that it is received by them by the date and time specified in the notice of hearing.

Note: Non-employer parties who complete this form are NOT required to complete items 8f or 8g below or to provide a commerce questionnaire or the lists described in item 7.

1a. Full name of party filing Statement of Position		1c. Business Phone:	1e. Fax No.:
1b. Address (Street and number, city, state, and ZIP code)		1d. Cell No.:	1f. e-Mail Address
2. Do you agree that the NLRB has jurisdiction over the Employer in this case? <input type="checkbox"/> Yes <input type="checkbox"/> No (A completed commerce questionnaire (Attachment A) must be submitted by the Employer, regardless of whether jurisdiction is admitted)			
3. Do you agree that the proposed unit is appropriate? <input type="checkbox"/> Yes <input type="checkbox"/> No (If not, answer 3a and 3b)			
a. State the basis for your contention that the proposed unit is not appropriate. (If you contend a classification should be excluded or included briefly explain why, such as shares a community of interest or are supervisors or guards)			
b. State any classifications, locations, or other employee groupings that must be added to or excluded from the proposed unit to make it an appropriate unit.			
Added		Excluded	
4. Other than the individuals in classifications listed in 3b, list any individual(s) whose eligibility to vote you intend to contest at the pre-election hearing in this case and the basis for contesting their eligibility.			
5. Is there a bar to conducting an election in this case? <input type="checkbox"/> Yes <input type="checkbox"/> No If yes, state the basis for your position.			
6. Describe all other issues you intend to raise at the pre-election hearing.			
7. The employer must provide the following lists which must be alphabetized (overall or by department) in the format specified at www.nlr.gov/sites/default/files/attachments/basic-page/node-4559/Optional Forms for Voter List.docx . (a) A list containing the full names, work locations, shifts and job classification of all individuals in the proposed unit as of the payroll period immediately preceding the filing of the petition who remain employed as of the date of the filing of the petition. (Attachment B) (b) If the employer contends that the proposed unit is inappropriate the employer must provide (1) a separate list containing the full names, work locations, shifts and job classifications of all individuals that it contends must be added to the proposed unit, if any to make it an appropriate unit, (Attachment C) and (2) a list containing the full names of any individuals it contends must be excluded from the proposed unit to make it an appropriate unit. (Attachment D)			
8a. State your position with respect to the details of any election that may be conducted in this matter. Type: <input type="checkbox"/> Manual <input type="checkbox"/> Mail <input type="checkbox"/> Mixed Manual/Mail			
8b. Date(s)	8c. Time(s)	8d. Location(s)	
8e. Eligibility Period (e.g. special eligibility formula)	8f. Last Payroll Period Ending Date	8g. Length of payroll period <input type="checkbox"/> Weekly <input type="checkbox"/> Biweekly <input type="checkbox"/> Other (specify length)	
9. Representative who will accept service of all papers for purposes of the representation proceeding			
9a. Full name and title of authorized representative	9b. Signature of authorized representative		9c. Date
9d. Address (Street and number, city, state, and ZIP code)			9e. e-Mail Address
9f. Business Phone No.:		9g. Fax No.	9h. Cell No.

WILLFUL FALSE STATEMENTS ON THIS PETITION CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)

PRIVACY ACT STATEMENT

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. Section 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing representation proceedings. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (December 13, 2006). The NLRB will further explain these uses upon request. Failure to supply the information requested by this form may preclude you from litigating issues under 102.66(d) of the Board's Rules and Regulations and may cause the NLRB to refuse to further process a representation case or may cause the NLRB to issue you a subpoena and seek enforcement of the subpoena in federal court.

QUESTIONNAIRE ON COMMERCE INFORMATION

Please read carefully, answer all applicable items, and return to the NLRB Office. If additional space is required, please add a page and identify item number.

CASE NAME	CASE NUMBER 04-RC-286591
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1. EXACT LEGAL TITLE OF ENTITY (As filed with State and/or stated in legal documents forming entity)

2. TYPE OF ENTITY

☐ CORPORATION ☐ LLC ☐ LLP ☐ PARTNERSHIP ☐ SOLE PROPRIETORSHIP ☐ OTHER (Specify)

3. IF A CORPORATION or LLC

A. STATE OF INCORPORATION OR FORMATION	B. NAME, ADDRESS, AND RELATIONSHIP (e.g. parent, subsidiary) OF ALL RELATED ENTITIES
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4. IF AN LLC OR ANY TYPE OF PARTNERSHIP, FULL NAME AND ADDRESS OF ALL MEMBERS OR PARTNERS

5. IF A SOLE PROPRIETORSHIP, FULL NAME AND ADDRESS OF PROPRIETOR

6. BRIEFLY DESCRIBE THE NATURE OF YOUR OPERATIONS (Products handled or manufactured, or nature of services performed).

7A. PRINCIPAL LOCATION:

7B. BRANCH LOCATIONS:

8. NUMBER OF PEOPLE PRESENTLY EMPLOYED

A. TOTAL:

B. AT THE ADDRESS INVOLVED IN THIS MATTER:

9. DURING THE MOST RECENT (Check the appropriate box): ☐ CALENDAR ☐ 12 MONTHS or ☐ FISCAL YEAR (FY DATES _____)

	YES	NO
A. Did you provide services valued in excess of \$50,000 directly to customers outside your State? If no, indicate actual value. \$ _____		
B. If you answered no to 9A, did you provide services valued in excess of \$50,000 to customers in your State who purchased goods valued in excess of \$50,000 from directly outside your State? If no, indicate the value of any such services you provided. \$ _____		
C. If you answered no to 9A and 9B, did you provide services valued in excess of \$50,000 to public utilities, transit systems, newspapers, health care institutions, broadcasting stations, commercial buildings, educational institutions, or retail concerns? If less than \$50,000, indicate amount. \$ _____		
D. Did you sell goods valued in excess of \$50,000 directly to customers located outside your State? If less than \$50,000, indicate amount. \$ _____		
E. If you answered no to 9D, did you sell goods valued in excess of \$50,000 directly to customers located inside your State who purchased other goods valued in excess of \$50,000 from directly outside your State? If less than \$50,000, indicate amount. \$ _____		
F. Did you purchase and receive goods valued in excess of \$50,000 from directly outside your State? If less than \$50,000, indicate amount. \$ _____		
G. Did you purchase and receive goods valued in excess of \$50,000 from enterprises who received the goods directly from points outside your State? If less than \$50,000, indicate amount. \$ _____		
H. Gross Revenues from all sales or performance of services (Check the largest amount) <input type="checkbox"/> \$100,000 <input type="checkbox"/> \$250,000 <input type="checkbox"/> \$500,000 <input type="checkbox"/> \$1,000,000 or more If less than \$100,000, indicate amount.		
I. Did you begin operations within the last 12 months? If yes, specify date: _____		

10. ARE YOU A MEMBER OF AN ASSOCIATION OR OTHER EMPLOYER GROUP THAT ENGAGES IN COLLECTIVE BARGAINING?

☐ YES ☐ NO (If yes, name and address of association or group).

11. REPRESENTATIVE BEST QUALIFIED TO GIVE FURTHER INFORMATION ABOUT YOUR OPERATIONS

NAME	TITLE	E-MAIL ADDRESS	TEL. NUMBER
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12. AUTHORIZED REPRESENTATIVE COMPLETING THIS QUESTIONNAIRE

NAME AND TITLE (Type or Print)	SIGNATURE	E-MAIL ADDRESS	DATE
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PRIVACY ACT STATEMENT

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing representation and/or unfair labor practice proceedings and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary. However, failure to supply the information may cause the NLRB to refuse to process any further a representation or unfair labor practice case, or may cause the NLRB to issue you a subpoena and seek enforcement of the subpoena in federal court.

REVIEW THE FOLLOWING IMPORTANT INFORMATION BEFORE FILLING OUT A RESPONSIVE STATEMENT OF POSITION FORM

Completing and Filing this Form: For **RC and RD petitions**, the Petitioner is required to complete this form in response to each timely filed and served Statement of Position filed by another party. For **RM petitions**, the Employer-Petitioner must complete a Responsive Statement of Position form and submit the list described below. In accordance with Section 102.63(b) of the Board's Rules, if you are required to complete the form, you must have it signed by an authorized representative, and file a completed copy with any necessary attachments, with this office and serve it on all parties named in the petition responding to the issues raised in another party's Statement of Position, such that it is received no later than noon three business days before the date of the hearing. A separate form must be completed for each timely filed and properly served Statement of Position you receive. If more space is needed for your answers, additional pages may be attached. If you have questions about this form or would like assistance in filling out this form, please contact the Board agent assigned to handle this case. **You must E-File your Responsive Statement of Position at www.NLRB.gov, but unlike other e-Filed documents, it will *not* be timely if filed on the due date but after noon in the time zone of the Region where the petition was filed. Note that if you are completing this form as a PDF downloaded from www.NLRB.gov, the form will lock upon signature and no further editing may be made.**

Required List: In addition to responding to the issues raised in another party's Statement of Position, if any, the Employer-Petitioner in an RM case is required to file and serve on the parties a list of the full names, work locations, shifts, and job classifications of all individuals in the proposed unit as of the payroll period preceding the filing of the petition who remain employed at the time of filing. This list must be alphabetized (overall or by department). Unless the employer certifies that it does not possess the capacity to produce the list in the required form, the list must be in a table in a Microsoft Word file (.doc or .docx) or a file that is compatible with Microsoft Word, the first column of the table must begin with each employee's last name, and the font size of the list must be the equivalent of Times New Roman 10 or larger. That font does not need to be used but the font must be that size or larger. A sample, optional form for the list is provided on the NLRB website at [www.nlr.gov/sites/default/files/attachments/basic-page/node-4559/Optional Forms for Voter List.docx](http://www.nlr.gov/sites/default/files/attachments/basic-page/node-4559/Optional%20Forms%20for%20Voter%20List.docx)

Consequences of Failure to Submit a Responsive Statement of Position: Failure to supply the information requested by this form may preclude you from litigating issues under 102.66(d) of the Board's Rules and Regulations. Section 102.66(d) provides as follows:

A party shall be precluded from raising any issue, presenting any evidence relating to any issue, cross-examining any witness concerning any issue, and presenting argument concerning any issue that the party failed to raise in its timely Statement of Position or to place in dispute in response to another party's Statement of Position or response, except that no party shall be precluded from contesting or presenting evidence relevant to the Board's statutory jurisdiction to process the petition. Nor shall any party be precluded, on the grounds that a voter's eligibility or inclusion was not contested at the pre-election hearing, from challenging the eligibility of any voter during the election. If a party contends that the proposed unit is not appropriate in its Statement of Position but fails to specify the classifications, locations, or other employee groupings that must be added to or excluded from the proposed unit to make it an appropriate unit, the party shall also be precluded from raising any issue as to the appropriateness of the unit, presenting any evidence relating to the appropriateness of the unit, cross-examining any witness concerning the appropriateness of the unit, and presenting argument concerning the appropriateness of the unit. If the employer fails to timely furnish the lists of employees described in §§102.63(b)(1)(iii), (b)(2)(iii), or (b)(3)(iii), the employer shall be precluded from contesting the appropriateness of the proposed unit at any time and from contesting the eligibility or inclusion of any individuals at the pre-election hearing, including by presenting evidence or argument, or by cross-examination of witnesses.

UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD
RESPONSIVE STATEMENT OF POSITION – RC, RD or RM PETITION

DO NOT WRITE IN THIS SPACE

Case No.
04-RC-286591

Date Filed
November 19, 2021

INSTRUCTIONS: If a party has submitted and served on you a timely Statement of Position to an RC, RD or RM petition, the Petitioner must submit this Responsive Statement of Position to an NLRB Office in the Region in which the petition was filed and serve it and any attachments on each party named in the petition in this case such that it is received by noon local time, three business days prior to the hearing date specified in the Notice of Hearing. A separate form must be completed for each timely filed and properly served Statement of Position received by the Petitioner. The Petitioner-Employer in a RM case is required to file this Responsive Statement of Position and include an appropriate employee list without regard to whether another party has filed a Statement of Position.

This Responsive Statement of Position is filed by the Petitioner in response to a Statement of Position received from the following party:

The Employer

An Intervenor/Union

1a. Full Name of Party Filing Responsive Statement of Position

1c. Business Phone

1d. Cell No.

1e. Fax No.

1f. E-Mail Address

1b. Address (Street and Number, City, State, and ZIP Code)

2. Identify all issues raised in the other party's Statement of Position that you dispute and describe the basis of your dispute:

a. EMPLOYER NAME/IDENTITY [Box 1a of Statement of Position Form NLRB-505 and Questionnaire on Commerce Information]

☐ No Dispute (no further response required) ☐ Dispute (response required below)

Response to Statement of Position:

b. JURISDICTION [Box 2 of Statement of Position Form NLRB-505 and Questionnaire on Commerce Information]

☐ No Dispute (no further response required) ☐ Dispute (response required below)

Response to Statement of Position:

c. APPROPRIATENESS OF UNIT [Boxes 3, 3a and 3b of Statement of Position Form NLRB-505]

☐ No Dispute (no further response required) ☐ Dispute (response required below)

Response to Statement of Position:

d. INDIVIDUAL ELIGIBILITY [Box 4 of Statement of Position Form NLRB-505]

☐ No Dispute (no further response required) ☐ Dispute (response required below)

Response to Statement of Position:

e. BARS TO ELECTION [Box 5 of Statement of Position Form NLRB-505]

☐ No Dispute (no further response required) ☐ Dispute (response required below)

Response to Statement of Position:

f. ALL OTHER ISSUES [Box 6 of Statement of Position Form NLRB-505]

☐ No Dispute (no further response required) ☐ Dispute (response required below)

Response to Statement of Position:

g. ELECTION DETAILS [Boxes 8a, 8b, 8c, 8d, 8e, 8f, and 8g of Statement of Position Form NLRB-505]

☐ No Dispute (no further response required) ☐ Dispute (response required below)

Response to Statement of Position:

Full Name and Title of Authorized Representative

Signature of Authorized Representative

Date

WILLFUL FALSE STATEMENTS ON THIS PETITION CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001) PRIVACY ACT STATEMENT

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. Section 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing representation proceedings. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. 74942-43 (December 13, 2006). The NLRB will further explain these uses upon request. Failure to supply the information requested by this form may preclude you from litigating issues under 102.66(d) of the Board's Rules and Regulations and may cause the NLRB to refuse to further process a representation case or may cause the NLRB to issue you a subpoena and seek enforcement of the subpoena in federal court.

Please fill all necessary fields on the form PRIOR to digitally signing. To make changes after the form has been signed, right-click on the signature field and click "clear signature." Once complete, please sign the form.



THOMAS T. HEARN

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Thomas.Hearn@obermayer.com
www.obermayer.com

Obermayer Rebmann Maxwell & Hippel LLP

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1500 Market Street | Suite 3400
Philadelphia | PA | 19102-2101
P: (215) 665.3000
F: (215).665.3165

November 29, 2021

VIA ELECTRONIC FILING and email (donna.bernini-martin@nlrb.gov)

Donna M. Bernini-Martin, Investigator
National Labor Relations Board, Region 4
100 E. Penn Square
Suite 403
Philadelphia, PA 19107

**Re: GFP Mobile Mix Supply
Case 04-RC-286591**

Dear Donna:

It was nice speaking with you last week. Kindly enter my appearance as counsel for GFP Mobile Mix Supply, the Employer, in the above-captioned matter. Accordingly, please forward all correspondence and telephone inquiries to my attention regarding this case.

Very truly yours,

THOMAS T. HEARN

TTH/ (b) (6), (b) (7)(C)

cc: (via-email) Noelle M. Reese, Supervisory Attorney
noelle.reese@nlrb.gov

ELECTION ORDER SHEET

1. CASE NAME GFP Mobile Mix Supply LLC		2. CASE NUMBER 04-RC-286591		
3. BOARD AGENT DONNA M. BERNINI		4. DATE 12/10/2021		
5. ALL ELECTIONS: BASIS FOR ELECTION: Stip MAIL BALLOTS? Yes STRIKE IN PROGRESS? No ARRANGEMENTS FOR DISCRIMINATEES TO VOTE NECESSARY? No CHALLENGES SPECIFIED IN DDE OR ELECTION AGREEMENT? No If yes, who? _____ SPECIAL ELIGIBILITY FORMULA, e.g. Daniel? No SELF-DETERMINATION ELECTION: No EXPEDITED ELECTION pursuant to 8(b)(7)? No				
Date of Election		Time and Place (Polling Area, Address, City & State)		No. of Polling Places
12/20/21		Time(s): N/A Place:		N/A
IF MORE THAN ONE POLL, LANGUAGE FOR NOTICE ABOUT WHEN AND WHERE WILL COUNT TAKE PLACE? _____ ALL BALLOTS WILL BE MINGLED AND COUNTED IMMEDIATELY AFTER THE CONCLUSION OF THE LAST VOTING SESSION _____ Other (specify):				
6. PAYROLL PERIOD ENDING 12/3/21		7. UNIT: AS SET FORTH IN Stip		
8A. BALLOTS: Approx. number in unit: 10 Number of challenges expected: 0		8B. FOREIGN LANGUAGE BALLOT(S): NECESSARY? No Language(s):		
8C. ORDER IN WHICH NAMES ARE TO APPEAR ON BALLOT WHERE MORE THAN ONE UNION IS INVOLVED (Note - Refer to Direction of Election or Agreement of parties for actual wording of names on ballots or notices of election)				
(1) International Union of Operating Engineers, Local 542	(2)	(3)	(4)	
9A. NOTICES: Are sent to the parties promptly by email, facsimile or, by overnight mail where no email or facsimile information was provided. Notices must be posted by Employer (MIDNIGHT) 3 FULL WORKING DAYS before election		9B. FOREIGN LANGUAGE NOTICE(S) NECESSARY? No IF YES, LANGUAGE(S): IF YES, ARE FURTHER ARRANGEMENTS NECESSARY TO ENSURE APPROPRIATE RESPONSES CAN BE MADE TO TELEPHONE INQUIRIES?		
10. NOTIFICATIONS: DATE AND METHOD OF NOTIFICATION TO PARTIES THAT ELECTION AGREEMENT WAS APPROVED OR DDE ISSUED				

IN ELECTION AGREEMENT CASES, SEND APPROVED AGREEMENT AND LETTER REQUESTING VOTER LIST TO: Both parties and their attorneys

IN DDE CASES, SEND ELECTION ARRANGEMENT/OBSERVER FORM LETTER TO:

SEND NOTICES FOR EMPLOYER'S FACILITY TO (applicable where no email or facsimile information is provided):

11. PRE-ELECTION CONFERENCE? No

(Place, Date and Time)

12. OTHER PENDING CASES Are there any pending C and/or R cases that could have bearing on this case? No
If so, Case Number(s):

13. VOTER LIST:

DID PARTY(IES) ENTITLED TO THE VOTER LIST WAIVE ALL OR ANY PORTION OF THE 10-DAY TIME PERIOD TO HAVE THE LIST? Yes IF SO, HOW MANY DAYS WERE WAIVED? 10

DATE LIST DUE: 12/14/21 (To be timely filed and served the list must be served on the parties within two business days after the approval of an election agreement or the direction of election unless a longer period of time was specified in the agreement or the direction of election.)

ARE SEPARATE ELIGIBILITY LISTS NEEDED? No

ELECTRONIC FORMAT: DID THE PARTIES AGREE TO AN ALTERNATE ELECTRONIC FORMAT FOR THE VOTER LIST (OTHER THAN A TABLE IN MICROSOFT WORD FILE OR FILE THAT IS MICROSOFT WORD COMPATIBLE)? No

OTHER (EXPLAIN)

14. VOTING ARRANGEMENTS (Check) N/A

RELEASING: By Observers: _____ By Board Agent(s): _____ By Supervisors: _____ Self-releasing _____ By Intercom: _____

VOTING WILL TAKE PLACE: According to a Schedule _____ During Working Hours _____
On Employees' Own Time _____ Other (Specify) _____

IS THIS A LARGE OR COMPLEX ELECTION? _____ IF YES, IS VOTER IDENTIFICATION NECESSARY? _____

SELECT NOTICE LANGUAGE FROM CHOICES BELOW ABOUT VOTING ARRANGEMENTS: _____.

1. EMPLOYEES ARE FREE TO VOTE AT ANY TIME THE POLLS ARE OPEN.
2. YOU WILL BE NOTIFIED AT THE TIME WHEN YOU MAY GO TO VOTE.
3. IF YOU WISH, YOU MAY VOTE ON YOUR OWN TIME WHILE THE POLLS ARE OPEN.
4. YOU MAY VOTE ON EMPLOYER TIME IN ACCORDANCE WITH THE ATTACHED VOTING SCHEDULE.
5. NO LANGUAGE

15. EQUIPMENT**N/A**

QUANTITY

FURNISHED BY

_____ BOOTHS

_____ Board

_____ CHAIRS

_____ Employer

_____ TABLES

_____ Employer

_____ BALLOT BOXES

_____ Board

SPECIAL EQUIPMENT *(Specify):***16. NAME AND PHONE NUMBER OF EMPLOYER ATTORNEY OR, IF NONE, AUTHORITATIVE COMPANY****REPRESENTATIVE:** Thomas T. Hearn, Esq., (215) 665-3013**17. OBSERVERS:**

Number of Observers for each party

One

18. MAIL BALLOT ELECTIONS OR MIXED MANUAL-MAIL ELECTIONWILL EMPLOYER PROVIDE MAILING LABELS? **No**DATE MB KITS TO BE SENT TO EMPLOYEES: 12/20/21 (NOTIFY PARTIES AT LEAST 11 DAYS PRIOR)DATE TO NOTIFY RO IF NOT RECEIVED: 12/27/21DATE TO BE COUNTED 1/24/22

TIME & PLACE TO BE COUNTED _____ By

videoconference**19. REMARKS:** *(INCLUDE DIRECTIONS TO FACILITY, IF AVAILABLE, AND ANY SPECIAL ELECTION OR UNUSUAL CIRCUMSTANCES. COMMUNICATE ANY CHANGES IN THESE ARRANGEMENTS TO REGIONAL MANAGER AND ELECTION CLERK.)*

Agree DSG 12/10/21

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD
STIPULATED ELECTION AGREEMENT

GFP Mobile Mix Supply LLC

Case 04-RC-286591

The parties **AGREE AS FOLLOWS:**

1. PROCEDURAL MATTERS. The parties waive their right to a hearing and agree that any notice of hearing previously issued in this matter is withdrawn, that the petition is amended to conform to this Agreement, and that the record of this case shall include this Agreement and be governed by the Board's Rules and Regulations.

2. COMMERCE. The Employer is engaged in commerce within the meaning of Section 2(6) and (7) of the National Labor Relations Act and a question affecting commerce has arisen concerning the representation of employees within the meaning of Section 9(c).

GFP Mobile Mix Supply LLC, a Delaware corporation, is engaged in the mixing and delivery of cement from its 14 Hadco Road, Wilmington, DE facility. During the past 12-month period, the Employer derived gross revenues valued in excess of \$250,000, and purchased and received at its Hadco, DE facility goods valued in excess of \$5,000 directly from points outside of the State of Delaware.

3. LABOR ORGANIZATION. The Petitioner is an organization in which employees participate, and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of work and is a labor organization within the meaning of Section 2(5) of the Act.

4. ELECTION. The election will be conducted by United States mail. The mail ballots will be mailed to employees employed in the appropriate collective-bargaining unit from the office of the National Labor Relations Board, Region 04, on **Monday, December 20, 2021**. Voters must return their mail ballots so that they will be received in the National Labor Relations Board, Region 04 office by close of business on **Monday, January 17, 2022**. The mail ballots will be counted at the Region 04 office located at 100 East Penn Square, Suite 403, Philadelphia, PA 19107 at 2:00 p.m. on **Monday, January 24, 2022**, or, at the Regional Director's discretion, by videoconference at a date and time to be determined by the Regional Director in consultation with the parties.

Voters must sign the outside of the envelope in which the ballot is returned. Any ballot received in an envelope that is not signed will be void.

If any eligible voter does not receive a mail ballot or otherwise requires a duplicate mail ballot kit, he or she should contact the Region 04 office by no later than **5:00 p.m. on Monday, December 27, 2021** in order to arrange for another mail ballot kit to be sent to that employee.

If the election and/or count is postponed or canceled, the Regional Director, in his or her discretion, may reschedule the date, time, and place of the election.

5. UNIT AND ELIGIBLE VOTERS. The following unit is appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act:

INCLUDED: All full-time and regular part-time volumetric concrete truck drivers employed by the Employer at its 14 Hadco Road, Wilmington, DE facility.

Initials: TTH

EXCLUDED: All other employees, clerical employees, professional employees, guards and supervisors as defined in the Act.

Those eligible to vote in the election are employees in the above unit who were employed during the **weekly payroll period ending Friday, December 3, 2021**, including employees who did not work during that period because they were ill, on vacation, or were temporarily laid off.

Employees engaged in any economic strike, who have retained their status as strikers and who have not been permanently replaced are also eligible to vote. In addition, employees engaged in an economic strike which commenced less than 12 months before the election date, who have retained their status as strikers but who have been permanently replaced, as well as their replacements are eligible to vote. Employees who are otherwise eligible but who are in the military services of the United States may vote if they appear in person at the polls or by mail as described above in paragraph 4.

Ineligible to vote are (1) employees who have quit or been discharged for cause after the designated payroll period for eligibility, (2) employees engaged in a strike who have been discharged for cause since the commencement thereof and who have not been rehired or reinstated before the election date, and (3) employees engaged in an economic strike which began more than 12 months before the election date who have been permanently replaced.

6. VOTER LIST. Within 2 business days after the Regional Director has approved this Agreement, the Employer must provide to the Regional Director and all of the other parties a voter list of the full names, work locations, shifts, job classifications, and contact information (including home addresses, available personal email addresses, and available personal home and cellular telephone numbers) of all eligible voters. The Employer must also include, in a separate section of that list, the same information for those individuals whom the parties have agreed should be permitted to vote subject to challenge. The list must be filed in common, everyday electronic file formats that can be searched. Unless otherwise agreed to by the parties, the list must be provided in a table in a Microsoft Word file (.doc or docx) or a file that is compatible with Microsoft Word (.doc or docx). The first column of the list must begin with each employee's last name and the list must be alphabetized (overall or by department) by last name. The font size of the list must be the equivalent of Times New Roman 10 or larger. That font does not need to be used but the font must be that size or larger. When feasible, the list must be filed electronically with the Regional Director and served electronically on the parties. The Employer must file with the Regional Director a certificate of service of the list on all parties.

7. THE BALLOT. The Regional Director, in his or her discretion, will decide the language(s) to be used on the election ballot. All parties should notify the Region as soon as possible of the need to have the Notice of Election and/or ballots translated.

The question on the ballot will be "Do you wish to be represented for purposes of collective bargaining by International Union of Operating Engineers, Local 542?" The choices on the ballot will be "Yes" or "No."

8. NOTICE OF ELECTION. The Regional Director, in his or her discretion, will decide the language(s) to be used on the Notice of Election. The Employer must post copies of the Notice of Election in conspicuous places, including all places where notices to employees in the unit are customarily posted, at least three (3) full working days prior to 12:01 a.m. of the day of the election. The Employer must also distribute the Notice of Election electronically, if the Employer customarily communicates with employees in the unit electronically. Failure to post or

Initials: TTH

distribute the Notice of Election as required shall be grounds for setting aside the election whenever proper and timely objections are filed.

9. NOTICE OF ELECTION ONSITE REPRESENTATIVE. The following individual will serve as the Employer's designated Notice of Election onsite representative: Dominic Papa, GFP Mobile Mix Supply LLC, 14 Hadco Road, Wilmington, DE 19804; Phone: (302) 998-7687; e-mail: dominic.papa@gfpcement.com.

10. ACCOMMODATIONS REQUIRED. All parties should notify the Region as soon as possible of any voters, potential voters, or other participants in this election who have handicaps falling within the provisions of Section 504 of the Rehabilitation Act of 1973, as amended, and 29 C.F.R. 100.503, and who in order to participate in the election need appropriate auxiliary aids, as defined in 29 C.F.R. 100.503, and request the necessary assistance.

11. OBSERVERS. Each party may station an equal number of authorized, nonsupervisory-employee observers at the polling places to assist in the election, to challenge the eligibility of voters, and to verify the tally.

12. TALLY OF BALLOTS. Upon conclusion of the election, the ballots will be counted and a tally of ballots prepared and immediately made available to the parties.

13. POSTELECTION AND RUNOFF PROCEDURES. All procedures after the ballots are counted shall conform with the Board's Rules and Regulations.

GFP Mobile Mix Supply LLC		International Union of Operating Engineers, Local 542	
<hr/>		<hr/>	
(Employer)		(Petitioner)	
By:	<div>12/10/21 <hr/>(Signature) (Date)</div>	By:	<div><hr/>(Signature) (Date)</div>
Print Name:	<div>Thomas T. Hearn <hr/></div>	Print Name:	<div><hr/></div>

Recommended:

/Donna M. Bernini
DONNA M. BERNINI, Field Examiner
(Date) 12/10/21

Date approved:

Regional Director, Region 04
National Labor Relations Board

Initials:

TTH

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD
STIPULATED ELECTION AGREEMENT

GFP Mobile Mix Supply LLC

Case 04-RC-286591

The parties **AGREE AS FOLLOWS:**

1. PROCEDURAL MATTERS. The parties waive their right to a hearing and agree that any notice of hearing previously issued in this matter is withdrawn, that the petition is amended to conform to this Agreement, and that the record of this case shall include this Agreement and be governed by the Board's Rules and Regulations.

2. COMMERCE. The Employer is engaged in commerce within the meaning of Section 2(6) and (7) of the National Labor Relations Act and a question affecting commerce has arisen concerning the representation of employees within the meaning of Section 9(c).

GFP Mobile Mix Supply LLC, a Delaware corporation, is engaged in the mixing and delivery of cement from its 14 Hadco Road, Wilmington, DE facility. During the past 12-month period, the Employer derived gross revenues valued in excess of \$250,000, and purchased and received at its Hadco, DE facility goods valued in excess of \$5,000 directly from points outside of the State of Delaware.

3. LABOR ORGANIZATION. The Petitioner is an organization in which employees participate, and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of work and is a labor organization within the meaning of Section 2(5) of the Act.

4. ELECTION. The election will be conducted by United States mail. The mail ballots will be mailed to employees employed in the appropriate collective-bargaining unit from the office of the National Labor Relations Board, Region 04, on **Monday, December 20, 2021**. Voters must return their mail ballots so that they will be received in the National Labor Relations Board, Region 04 office by close of business on **Monday, January 17, 2022**. The mail ballots will be counted at the Region 04 office located at 100 East Penn Square, Suite 403, Philadelphia, PA 19107 at 2:00 p.m. on **Monday, January 24, 2022**, or, at the Regional Director's discretion, by videoconference at a date and time to be determined by the Regional Director in consultation with the parties.

Voters must sign the outside of the envelope in which the ballot is returned. Any ballot received in an envelope that is not signed will be void.

If any eligible voter does not receive a mail ballot or otherwise requires a duplicate mail ballot kit, he or she should contact the Region 04 office by no later than **5:00 p.m. on Monday, December 27, 2021** in order to arrange for another mail ballot kit to be sent to that employee.

If the election and/or count is postponed or canceled, the Regional Director, in his or her discretion, may reschedule the date, time, and place of the election.

5. UNIT AND ELIGIBLE VOTERS. The following unit is appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act:

INCLUDED: All full-time and regular part-time volumetric concrete truck drivers employed by the Employer at its 14 Hadco Road, Wilmington, DE facility.

Initials: **M.T.**

EXCLUDED: All other employees, clerical employees, professional employees, guards and supervisors as defined in the Act.

Those eligible to vote in the election are employees in the above unit who were employed during the **weekly payroll period ending Friday, December 3, 2021**, including employees who did not work during that period because they were ill, on vacation, or were temporarily laid off.

Employees engaged in any economic strike, who have retained their status as strikers and who have not been permanently replaced are also eligible to vote. In addition, employees engaged in an economic strike which commenced less than 12 months before the election date, who have retained their status as strikers but who have been permanently replaced, as well as their replacements are eligible to vote. Employees who are otherwise eligible but who are in the military services of the United States may vote if they appear in person at the polls or by mail as described above in paragraph 4.

Ineligible to vote are (1) employees who have quit or been discharged for cause after the designated payroll period for eligibility, (2) employees engaged in a strike who have been discharged for cause since the commencement thereof and who have not been rehired or reinstated before the election date, and (3) employees engaged in an economic strike which began more than 12 months before the election date who have been permanently replaced.

6. VOTER LIST. Within 2 business days after the Regional Director has approved this Agreement, the Employer must provide to the Regional Director and all of the other parties a voter list of the full names, work locations, shifts, job classifications, and contact information (including home addresses, available personal email addresses, and available personal home and cellular telephone numbers) of all eligible voters. The Employer must also include, in a separate section of that list, the same information for those individuals whom the parties have agreed should be permitted to vote subject to challenge. The list must be filed in common, everyday electronic file formats that can be searched. Unless otherwise agreed to by the parties, the list must be provided in a table in a Microsoft Word file (.doc or docx) or a file that is compatible with Microsoft Word (.doc or docx). The first column of the list must begin with each employee's last name and the list must be alphabetized (overall or by department) by last name. The font size of the list must be the equivalent of Times New Roman 10 or larger. That font does not need to be used but the font must be that size or larger. When feasible, the list must be filed electronically with the Regional Director and served electronically on the parties. The Employer must file with the Regional Director a certificate of service of the list on all parties.

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Initials: **M.T.**

distribute the Notice of Election as required shall be grounds for setting aside the election whenever proper and timely objections are filed.

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10. ACCOMMODATIONS REQUIRED. All parties should notify the Region as soon as possible of any voters, potential voters, or other participants in this election who have handicaps falling within the provisions of Section 504 of the Rehabilitation Act of 1973, as amended, and 29 C.F.R. 100.503, and who in order to participate in the election need appropriate auxiliary aids, as defined in 29 C.F.R. 100.503, and request the necessary assistance.

11. OBSERVERS. Each party may station an equal number of authorized, nonsupervisory-employee observers at the polling places to assist in the election, to challenge the eligibility of voters, and to verify the tally.

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GFP Mobile Mix Supply LLC		International Union of Operating Engineers, Local 542	
<hr/>		<hr/>	
(Employer)		(Petitioner)	
By:	<hr/>	By:	<hr/>
	(Signature) (Date)		(Signature) (Date)
Print Name:	<hr/>	Print Name:	<hr/>

Recommended: /Donna M. Bernini
DONNA M. BERNINI, Field Examiner
(Date) 12/10/21

Date approved:

Regional Director, Region 04
National Labor Relations Board

Initials: M.T.

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD
STIPULATED ELECTION AGREEMENT

GFP Mobile Mix Supply LLC

Case 04-RC-286591

The parties **AGREE AS FOLLOWS:**

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3. LABOR ORGANIZATION. The Petitioner is an organization in which employees participate, and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of work and is a labor organization within the meaning of Section 2(5) of the Act.

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If the election and/or count is postponed or canceled, the Regional Director, in his or her discretion, may reschedule the date, time, and place of the election.

5. UNIT AND ELIGIBLE VOTERS. The following unit is appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act:

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Initials: _____

EXCLUDED: All other employees, clerical employees, professional employees, guards and supervisors as defined in the Act.

Those eligible to vote in the election are employees in the above unit who were employed during the **weekly payroll period ending Friday, December 3, 2021**, including employees who did not work during that period because they were ill, on vacation, or were temporarily laid off.

Employees engaged in any economic strike, who have retained their status as strikers and who have not been permanently replaced are also eligible to vote. In addition, employees engaged in an economic strike which commenced less than 12 months before the election date, who have retained their status as strikers but who have been permanently replaced, as well as their replacements are eligible to vote. Employees who are otherwise eligible but who are in the military services of the United States may vote if they appear in person at the polls or by mail as described above in paragraph 4.

Ineligible to vote are (1) employees who have quit or been discharged for cause after the designated payroll period for eligibility, (2) employees engaged in a strike who have been discharged for cause since the commencement thereof and who have not been rehired or reinstated before the election date, and (3) employees engaged in an economic strike which began more than 12 months before the election date who have been permanently replaced.

6. VOTER LIST. Within 2 business days after the Regional Director has approved this Agreement, the Employer must provide to the Regional Director and all of the other parties a voter list of the full names, work locations, shifts, job classifications, and contact information (including home addresses, available personal email addresses, and available personal home and cellular telephone numbers) of all eligible voters. The Employer must also include, in a separate section of that list, the same information for those individuals whom the parties have agreed should be permitted to vote subject to challenge. The list must be filed in common, everyday electronic file formats that can be searched. Unless otherwise agreed to by the parties, the list must be provided in a table in a Microsoft Word file (.doc or docx) or a file that is compatible with Microsoft Word (.doc or docx). The first column of the list must begin with each employee's last name and the list must be alphabetized (overall or by department) by last name. The font size of the list must be the equivalent of Times New Roman 10 or larger. That font does not need to be used but the font must be that size or larger. When feasible, the list must be filed electronically with the Regional Director and served electronically on the parties. The Employer must file with the Regional Director a certificate of service of the list on all parties.

7. THE BALLOT. The Regional Director, in his or her discretion, will decide the language(s) to be used on the election ballot. All parties should notify the Region as soon as possible of the need to have the Notice of Election and/or ballots translated.

The question on the ballot will be "Do you wish to be represented for purposes of collective bargaining by International Union of Operating Engineers, Local 542?" The choices on the ballot will be "Yes" or "No."

8. NOTICE OF ELECTION. The Regional Director, in his or her discretion, will decide the language(s) to be used on the Notice of Election. The Employer must post copies of the Notice of Election in conspicuous places, including all places where notices to employees in the unit are customarily posted, at least three (3) full working days prior to 12:01 a.m. of the day of the election. The Employer must also distribute the Notice of Election electronically, if the Employer customarily communicates with employees in the unit electronically. Failure to post or

Initials: _____

distribute the Notice of Election as required shall be grounds for setting aside the election whenever proper and timely objections are filed.

9. NOTICE OF ELECTION ONSITE REPRESENTATIVE. The following individual will serve as the Employer's designated Notice of Election onsite representative: Dominic Papa, GFP Mobile Mix Supply LLC, 14 Hadco Road, Wilmington, DE 19804; Phone: (302) 998-7687; e-mail: dominic.papa@gfpcement.com.

10. ACCOMMODATIONS REQUIRED. All parties should notify the Region as soon as possible of any voters, potential voters, or other participants in this election who have handicaps falling within the provisions of Section 504 of the Rehabilitation Act of 1973, as amended, and 29 C.F.R. 100.503, and who in order to participate in the election need appropriate auxiliary aids, as defined in 29 C.F.R. 100.503, and request the necessary assistance.

11. OBSERVERS. Each party may station an equal number of authorized, nonsupervisory-employee observers at the polling places to assist in the election, to challenge the eligibility of voters, and to verify the tally.

12. TALLY OF BALLOTS. Upon conclusion of the election, the ballots will be counted and a tally of ballots prepared and immediately made available to the parties.

13. POSTELECTION AND RUNOFF PROCEDURES. All procedures after the ballots are counted shall conform with the Board's Rules and Regulations.

GFP Mobile Mix Supply LLC		International Union of Operating Engineers, Local 542	
<hr/>		<hr/>	
(Employer)		(Petitioner)	
By:	<u>/s/ Thomas T. Hearn 12/10/21</u>	By:	<u>/s/ Matt Toomey 12/10/21</u>
	(Signature) (Date)		(Signature) (Date)
Print		Print Name:	
Name:	<u>Thomas T. Hearn</u>		<u>Matt Toomey</u>

Recommended: /s/ Donna M. Bernini 12/10/21
DONNA M. BERNINI, Field Examiner
(Date)

Date approved: 12/10/21

/s/ Thomas Goonan
Regional Director, Region 04
National Labor Relations Board

Initials: _____



United States of America
National Labor Relations Board
NOTICE OF ELECTION



PURPOSE OF ELECTION: This election is to determine the representative, if any, desired by the eligible employees for purposes of collective bargaining with their employer. (See VOTING UNIT in this Notice of Election for description of eligible employees.) A majority of the valid ballots cast will determine the results of the election. Only one valid representation election may be held in a 12-month period.

SECRET BALLOT: The election will be by secret ballot carried out through the U.S. mail under the supervision of the Regional Director of the National Labor Relations Board (NLRB). A sample of the official ballot is shown on the next page of this Notice. Voters will be allowed to vote without interference, restraint, or coercion. Employees eligible to vote will receive in the mail *Instructions to Employees Voting by United States Mail*, a ballot, a blue envelope, and a yellow self-addressed envelope needing no postage.

ELIGIBILITY RULES: Employees eligible to vote are those described under the VOTING UNIT on the next page and include employees who did not work during the designated payroll period because they were ill or on vacation or temporarily laid off. Employees who have quit or been discharged for cause since the designated payroll period and who have not been rehired or reinstated prior to the date of this election are not eligible to vote.

CHALLENGE OF VOTERS: An agent of the Board or an authorized observer may question the eligibility of a voter. Such challenge must be made at the time the ballots are counted.

AUTHORIZED OBSERVERS: Each party may designate an equal number of observers, this number to be determined by the NLRB. These observers (a) act as checkers at the counting of ballots; (b) assist in identifying voters; (c) challenge voters and ballots; and (d) otherwise assist the NLRB.

METHOD AND DATE OF ELECTION

The election will be conducted by United States mail. The mail ballots will be mailed to employees employed in the appropriate collective-bargaining unit. At 5:00 pm on Monday, December 20, 2021, ballots will be mailed to voters from the National Labor Relations Board, Region 04, 100 E Penn Square, Suite 403, Philadelphia, PA 19107. Voters must sign the outside of the envelope in which the ballot is returned. Any ballot received in an envelope that is not signed will be automatically void.

Those employees who believe that they are eligible to vote and did not receive a ballot in the mail by Monday, December 27, 2021, should communicate immediately with the National Labor Relations Board by either calling the Region 04 Office at (215)597-7601 or our national toll-free line at 1-844- 762-NLRB (1-844-762-6572).

All ballots will be commingled and counted at the Region 04 Office located at 100 East Penn Square, Suite 403, Philadelphia, PA 19107 on Monday, January 24, 2022 at 2:00 pm. or, at the Regional Director's discretion, by videoconference at a date and time to be determined by the Regional Director in consultation with the parties. In order to be valid and counted, the returned ballots must be received in the Region 04 Office prior to the counting of the ballots.

WARNING: This is the only official notice of this election and must not be defaced by anyone. Any markings that you may see on any sample ballot or anywhere on this notice have been made by someone other than the National Labor Relations Board, and have not been put there by the National Labor Relations Board. The National Labor Relations Board is an agency of the United States Government, and does not endorse any choice in the election.

VOTING UNIT – 04-RC-286591

EMPLOYEES ELIGIBLE TO VOTE:

Those eligible to vote are: All full-time and regular part-time volumetric concrete truck drivers and operators employed by the Employer at its 14 Hadco Road, Wilmington, DE facility who were employed by the Employer during the payroll period ending December 3, 2021.

EMPLOYEES NOT ELIGIBLE TO VOTE:

Those not eligible to vote are: All other employees, clerical employees, professional employees, guards and supervisors as defined in the Act.



United States of America
National Labor Relations Board
NOTICE OF ELECTION



UNITED STATES OF AMERICA
National Labor Relations Board

04-RC-286591

OFFICIAL SECRET BALLOT

For certain employees of
GFP MOBILE MIX SUPPLY LLC



Do you wish to be represented for purposes of collective bargaining by
INTERNATIONAL UNION OF OPERATING ENGINEERS,
LOCAL 542?

MARK AN "X" IN THE SQUARE OF YOUR CHOICE

YES

☐

NO

☐

DO NOT SIGN OR WRITE YOUR NAME OR INCLUDE OTHER MARKINGS THAT WOULD REVEAL YOUR IDENTITY. MARK AN "X" IN THE SQUARE OF YOUR CHOICE ONLY. If you make markings inside, or anywhere around, more than one square, you may request a new ballot by referring to the enclosed instructions. If you submit a ballot with markings inside, or anywhere around, more than one square, your ballot will not be counted.

The National Labor Relations Board does not endorse any choice in this election. Any markings that you may see on any sample ballot have not been put there by the National Labor Relations Board.



United States of America
National Labor Relations Board
NOTICE OF ELECTION



RIGHTS OF EMPLOYEES - FEDERAL LAW GIVES YOU THE RIGHT TO:

- **Form, join, or assist a union**
- **Choose representatives to bargain with your employer on your behalf**
- **Act together with other employees for your benefit and protection**
- **Choose not to engage in any of these protected activities**
- **In a State where such agreements are permitted, the Union and Employer may enter into a lawful union-security agreement requiring employees to pay periodic dues and initiation fees. Nonmembers who inform the Union that they object to the use of their payments for nonrepresentational purposes may be required to pay only their share of the Union's costs of representational activities (such as collective bargaining, contract administration, and grievance adjustment).**

It is the responsibility of the National Labor Relations Board to protect employees in the exercise of these rights.

The Board wants all eligible voters to be fully informed about their rights under Federal law and wants both Employers and Unions to know what is expected of them when it holds an election.

If agents of either Unions or Employers interfere with your right to a free, fair, and honest election the election can be set aside by the Board. When appropriate, the Board provides other remedies, such as reinstatement for employees fired for exercising their rights, including backpay from the party responsible for their discharge.

The following are examples of conduct that interfere with the rights of employees and may result in setting aside of the election:

- **Threatening loss of jobs or benefits by an Employer or a Union**
- **Promising or granting promotions, pay raises, or other benefits, to influence an employee's vote by a party capable of carrying out such promises**
- **An Employer firing employees to discourage or encourage union activity or a Union causing them to be fired to encourage union activity**
- **Making campaign speeches to assembled groups of employees on company time where attendance is mandatory, within the 24-hour period before the mail ballots are dispatched**
- **Incitement by either an Employer or a Union of racial or religious prejudice by inflammatory appeals**
- **Threatening physical force or violence to employees by a Union or an Employer to influence their votes**

The National Labor Relations Board protects your right to a free choice.

Improper conduct will not be permitted. All parties are expected to cooperate fully with this Agency in maintaining basic principles of a fair election as required by law.

Anyone with a question about the election may contact the NLRB Office at (215)597-7601 or visit the NLRB website www.nlr.gov for assistance.

United States of America
National Labor Relations Board

**Instructions to Eligible Employees Voting
By United States Mail**



INSTRUCTIONS

1. MARK YOUR BALLOT IN SECRET BY PLACING AN X IN THE APPROPRIATE BOX. DO NOT SIGN OR WRITE YOUR NAME OR INCLUDE OTHER MARKINGS THAT WOULD REVEAL YOUR IDENTITY.
2. IF YOU SUBMIT A BALLOT WITH MARKINGS INSIDE, OR ANYWHERE AROUND, MORE THAN ONE SQUARE, YOUR BALLOT WILL NOT BE COUNTED. YOU MAY REQUEST A NEW BALLOT BY CALLING THE REGIONAL OFFICE AT THE NUMBER BELOW.
3. IT IS IMPORTANT TO MAINTAIN THE SECRECY OF YOUR BALLOT. DO NOT SHOW YOUR BALLOT TO ANYONE AFTER YOU HAVE MARKED IT.
4. PUT YOUR BALLOT IN THE BLUE ENVELOPE AND SEAL THE ENVELOPE.
5. PUT THE BLUE ENVELOPE CONTAINING THE BALLOT INTO THE YELLOW ADDRESSED RETURN ENVELOPE.
6. SIGN THE BACK OF THE YELLOW RETURN ENVELOPE IN THE SPACE PROVIDED. TO BE COUNTED, THE YELLOW RETURN ENVELOPE MUST BE SIGNED.
7. DO NOT PERMIT ANY PARTY – THE EMPLOYER, THE UNION(S), OR THEIR REPRESENTATIVES, OR AN EMPLOYEE-PETITIONER – TO HANDLE, COLLECT, OR MAIL YOUR BALLOT.
8. MAIL THE BALLOT IMMEDIATELY. NO POSTAGE IS NECESSARY. For further information, call the Regional Office at:
(215) 597-7621

TO BE COUNTED, YOUR BALLOT MUST REACH THE REGIONAL OFFICE

BY Monday, January 17, 2022

RIGHTS OF EMPLOYEES

Under the National Labor Relations Act, employees have the right:

- To self-organization
- To form, join, or assist labor organizations
- To bargain collectively through representatives of their own choosing
- To act together for the purposes of collective bargaining or other mutual aid or protection
- To refuse to do any or all of these things unless the union and employer, in a state where such agreements are permitted, enter into a lawful union-security agreement requiring employees to pay periodic dues and initiation fees. Nonmembers who inform the union that they object to the use of their payments for non representational purposes may be required to pay only their share of the union's costs of representational activities (such as collective bargaining, contract administration, and grievance adjustment).

It is the responsibility of the National Labor Relations Board to protect employees in the exercise of these rights.

The Board wants all eligible voters to be fully informed about their rights under Federal law and wants both employers and unions to know what is expected of them when it holds an election.

If agents of either unions or employers interfere with your right to a free, fair, and honest election, the election can be set aside by the Board. Where appropriate, the Board provides other remedies, such as reinstatement for employees fired for exercising their rights, including backpay from the party responsible for their discharge.

The following are examples of conduct that interfere with the rights of employees and may result in the setting aside of the election:

- Threatening loss of jobs or benefits by an employer or a union
- Promising or granting promotions, pay raises, or other benefits to influence an employee's vote by a party capable of carrying out such promises
- An employer firing employees to discourage or encourage union activity or a union causing them to be fired to encourage union activity
- Incitement by either an employer or a union of racial or religious prejudice by inflammatory appeals
- Threatening physical force or violence to employees by a union or an employer to influence their votes.

The National Labor Relations Board protects your right to a free choice

Improper conduct will not be permitted. All parties are expected to cooperate fully with this Agency in maintaining basic principles of a fair election as required by law. The National Labor Relations Board as an agency of the United States Government does not endorse any choice in the election.



NATIONAL LABOR RELATIONS BOARD
an agency of the
UNITED STATES GOVERNMENT

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD

Date Filed
Nov 19, 2021

Case No. 04-RC-286591

Date Issued 01/24/2022

City Philadelphia

State PA

Type of Election:
(Check one:)

(If applicable check
either or both:)

☒ Stipulation

☐ 8(b) (7)

☐ Board Direction

☒ Mail Ballot

☐ Consent Agreement

☐ RD Direction
Incumbent Union (Code)

GFP Mobile Mix Supply LLC

Employer

and

International Union of Operating Engineers Local 542

Petitioner

TALLY OF BALLOTS

The undersigned agent of the Regional Director certifies that the results of tabulation of ballots case in the election held in the above case, and concluded on the date indicated above, were as follows:

- | | |
|---|------------|
| 1. Approximate number of eligible voters | 10 |
| 2. Number of Void ballots | 0 |
| 3. Number of Votes cast for Petitioner | 7 |
| 4. Number of Votes cast for XX | XXXXXXXXXX |
| 5. Number of Votes cast for XX | XXXXXXXXXX |
| 6. Number of Votes cast against participating labor organization(s) | 3 |
| 7. Number of Valid votes counted (sum 3, 4, 5, and 6) | 10 |
| 8. Number of challenged ballots | 0 |
| 9. Number of Valid votes counted plus challenged ballots (sum of 7 and 8) | 10 |
| 10. Challenges are <input type="checkbox"/> sufficient in number to affect the results of the election. | |
| 11. A majority of the valid votes counted plus challenged ballots (Item 9 <input checked="" type="checkbox"/> has not) been cast for Petitioner | |

For the Regional Director /Donna M. Bernini

The undersigned acted as authorized observers in the counting and tabulating of ballots indicated above. We hereby certify that the counting and tabulating were fairly and accurately done, that the secrecy of the ballots was maintained, and that the results were as indicated above. We also acknowledge service of this tally.

For Employer

For Petitioner

For

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 4**

GFP Mobile Mix Supply LLC

Employer

and

Case 04-RC-286591

**International Union of Operating Engineers, Local
542**

Petitioner

TYPE OF ELECTION: STIPULATED

CERTIFICATION OF REPRESENTATIVE

An election has been conducted under the Board's Rules and Regulations. The Tally of Ballots shows that a collective-bargaining representative has been selected. No timely objections have been filed.

As authorized by the National Labor Relations Board, it is certified that a majority of the valid ballots has been cast for

International Union of Operating Engineers, Local 542

and that it is the exclusive collective-bargaining representative of the employees in the following appropriate unit:

Unit: INCLUDED: All full-time and regular part-time volumetric concrete truck drivers and operators employed by the Employer at its 14 Hadco Road, Wilmington, DE facility.

EXCLUDED: All other employees, clerical employees, professional employees, guards and supervisors as defined in the Act.



February 1, 2022

/s/ Thomas Goonan

Thomas Goonan
Regional Director, Region 4
National Labor Relations Board

Attachment: Notice of Bargaining Obligation

NOTICE OF BARGAINING OBLIGATION

In the recent representation election, a labor organization received a majority of the valid votes cast. Except in unusual circumstances, unless the results of the election are subsequently set aside in a post-election proceeding, the employer's legal obligation to refrain from unilaterally changing bargaining unit employees' terms and conditions of employment begins on the date of the election.

The employer is not precluded from changing bargaining unit employees' terms and conditions during the pendency of post-election proceedings, **as long as** the employer (a) gives sufficient notice to the labor organization concerning the proposed change(s); (b) negotiates in good faith with the labor organization, upon request; and (c) good faith bargaining between the employer and the labor organization leads to agreement or overall lawful impasse.

This is so even if the employer, or some other party, files objections to the election pursuant to Section 102.69 of the Rules and Regulations of the National Labor Relations Board (the Board). If the objections are later overruled and the labor organization is certified as the employees' collective-bargaining representative, the employer's obligation to refrain from making unilateral changes to bargaining unit employees' terms and conditions of employment begins on the date of the election, not on the date of the subsequent decision by the Board or court. Specifically, the Board has held that, absent exceptional circumstances,¹ an employer acts at its peril in making changes in wages, hours, or other terms and conditions of employment during the period while objections are pending and the final determination about certification of the labor organization has not yet been made.

It is important that all parties be aware of the potential liabilities if the employer unilaterally alters bargaining unit employees' terms and conditions of employment during the pendency of post-election proceedings. Thus, typically, if an employer makes post-election changes in employees' wages, hours, or other terms and conditions of employment without notice to or consultation with the labor organization that is ultimately certified as the employees' collective-bargaining representative, it violates Section 8(a)(1) and (5) of the National Labor Relations Act since such changes have the effect of undermining the labor organization's status as the statutory representative of the employees. This is so even if the changes were motivated by sound business considerations and not for the purpose of undermining the labor organization. As a remedy, the employer could be required to: 1) restore the status quo ante; 2) bargain, upon request, with the labor organization with respect to these changes; and 3) compensate employees, with interest, for monetary losses resulting from the unilateral implementation of these changes, until the employer bargains in good faith with the labor organization, upon request, or bargains to overall lawful impasse.

¹ Exceptions may include the presence of a longstanding past practice, discrete event, or exigent economic circumstance requiring an immediate response.